

EXHIBIT 10
(PART 3 OF 3)

04:12:16 1 MR. HAWK: -- except conduct an
2 examination --
3 MR. HORNICK: You can't mislead the
4 witness.
5 MR. HAWK: -- and you're
6 interfering.
7 THE REPORTER: Hold on. I can't
8 take you guys both.
9 MR. HORNICK: You can't mislead the
10 witness.
04:12:21 11 MR. HAWK: Fine. All right.
04:12:21 12 A. To answer your question, when we asked Mr.
04:12:23 13 Gao for the code, I asked him for -- we
04:12:26 14 specifically asked him for code that did not
04:12:28 15 include Mark Zuckerberg's code when filing
04:12:30 16 with the copyright office, okay?
04:12:32 17 Q. Why did you do that?
04:12:33 18 A. Because we wouldn't file Mark Zuckerberg's
04:12:37 19 code with the copyright office. We filed
04:12:39 20 the code that we wrote.
04:12:41 21 Q. I thought you said there was only one
04:12:42 22 version of the code. So there are two
04:12:44 23 versions of the code, right?
04:12:45 24 A. No, no, no. There's one version of the
04:12:47 25 code. Mark -- as I said, Mark didn't upload

04:14:02 1 Mark on the server, aside from him poking
04:14:05 2 around in files and duplicating code that
04:14:08 3 Mr. Gao had already written.
04:14:10 4 Now, if you want to call that a
04:14:11 5 version, I'm not sure what you mean by a
04:14:14 6 version. You're talking about multiple
04:14:15 7 versions of the code.
04:14:16 8 Q. Well, you're not answering my question.
04:14:16 9 MR. HORNICK: Yes, he has answered
04:14:16 10 your question.
04:14:18 11 Q. Let me ask you this. Let me ask you this.
04:14:19 12 MR. HORNICK: You showed him the
04:14:21 13 code --
04:14:21 14 MR. CHATTERJEE: Counsel, lodge an
04:14:23 15 objection. You don't need to instruct the
04:14:24 16 witness, and you don't need to argue.
04:14:25 17 MR. HORNICK: I'm not instructing
04:14:27 18 the witness.
04:14:27 19 MR. HAWK: Yeah, you're --
04:14:28 20 MR. HORNICK: You're asking unfair
04:14:29 21 questions.
04:14:29 22 MR. CHATTERJEE: I'm looking
04:14:30 23 forward to bringing this in front of the
04:14:32 24 Court.
04:14:33 25 BY MR. HAWK:

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04:12:50 1 any of his stuff into the server.
04:12:52 2 Q. Well, let me ask you this: You said you
04:12:56 3 instructed Mr. Gao to give you code that did
04:13:01 4 not contain any contributions by Mark
04:13:04 5 Zuckerberg. Is that what you told Mr. Gao?
04:13:06 6 A. Yes, but there were no contributions from
04:13:09 7 Mr. Zuckerberg in the code, is what I'm
04:13:12 8 getting at.
04:13:12 9 Q. Well, did Mr. Gao confirm to you that he did
04:13:18 10 not strip out anything from the code that --
04:13:21 11 before he gave it to you?
04:13:22 12 A. I believe that Mr. Gao told me that there
04:13:24 13 was no code in there, that Mark Zuckerberg
04:13:28 14 wrote when he file -- when he gave us the
04:13:30 15 code to file with the copyright office.
04:13:32 16 Q. Okay. So that's your testimony; Mr. Gao
04:13:34 17 told you that there was no code written by
04:13:37 18 Mr. Zuckerberg, no code whatsoever in the
04:13:46 19 HarvardConnection code that he found and
04:13:47 20 that he gave to you?
04:13:48 21 A. My testimony is that the code that was filed
04:13:50 22 with the copyright office did not contain
04:13:54 23 Mark Zuckerberg's code. Now, in addition to
04:13:55 24 that, I am under the impression that Mr. Gao
4:13:59 25 said that there was no contribution from

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04:14:33 1 Q. Did Mr. Gao strip out any code from the
04:14:36 2 version that he gave you which you gave to
04:14:38 3 your lawyers to deposit with the copyright
04:14:39 4 office?
04:14:39 5 A. I am -- I can't answer that. I don't know
04:14:42 6 the answer to that. I know that the code
04:14:44 7 given to the copyright office has none of
04:14:47 8 Mark Zuckerberg's code.
04:14:48 9 Q. And how do you know that? Is that because
04:14:49 10 Mr. Gao told you that?
04:14:50 11 A. Because we wouldn't have filed code that he
04:14:55 12 written -- wrote for copyright because it's
04:14:57 13 not our code.
04:14:58 14 Q. Right. And I know you didn't intend to do
04:15:02 15 that, but you've made an unequivocal
04:15:05 16 statement that you did not file code with
04:15:06 17 the copyright office that contained
04:15:08 18 contributions by Mr. Zuckerberg. Now, hold
04:15:11 19 on, let me finish the question. And so I
04:15:13 20 want to know what is your factual basis for
04:15:15 21 that statement, not what you intended to do,
04:15:17 22 but what your factual basis for that
04:15:19 23 statement is?
04:15:19 24 A. Simply based on the fact that it was not --
04:15:27 25 you know, it would not be our intent to file

04:15:31 1 such code.
 04:15:32 2 Q. Okay. Did you ever have any discussion with
 04:15:34 3 Mr. Gao about whether or not he stripped out
 04:15:38 4 any code that was done by Mr. Zuckerberg?
 04:15:40 5 A. To be quite honest, I don't remember if -- I
 04:15:44 6 remember that the contribution -- Mark's
 04:15:46 7 contribution was nil, okay? He went onto
 04:15:49 8 the server, and there was no contribution.
 04:15:50 9 Q. That wasn't my question. My question was,
 04:15:52 10 did you ever have any conversation with Mr.
 04:15:55 11 Gao about whether he stripped out any code?
 04:15:58 12 A. I believe that I asked Mr. Gao at the time,
 04:16:08 13 is there any code -- is any of Mr.
 04:16:12 14 Zuckerberg's code in this? And his response
 04:16:14 15 was that -- I believe that there was no code
 04:16:20 16 from Mr. Zuckerberg in that piece of code.
 04:16:24 17 Q. And that there never had been?
 04:16:27 18 A. Well, see, the thing is, like, you know, if
 04:16:32 19 you want to contin -- if you want to -- I'm
 04:16:34 20 not a programmer, I'm not an expert, but are
 04:16:36 21 you -- would you consider -- you know, are
 04:16:39 22 you considering code that Mark Zuckerberg
 04:16:40 23 copied and renamed from -- that Victor Gao
 04:16:45 24 wrote? Because that code is Victor Gao's
 04:16:48 25 code. Do you see what I'm getting at? And

04:17:38 1 assumption, belief, same thing.
 04:17:40 2 Q. I know, that's what I'm saying. I don't
 04:17:42 3 want that. I want your recollections of
 04:17:45 4 conversations --
 04:17:45 5 A. Okay.
 04:17:45 6 Q. -- with Mr. Gao.
 04:17:46 7 A. Okay. I asked -- okay. If we're talking
 04:17:47 8 about recollections, my recollection was
 04:17:50 9 "Give me the HarvardConnection code that
 04:17:53 10 everybody contributed to without Mark
 04:17:54 11 Zuckerberg," okay? He gave that to me.
 04:17:57 12 Q. Okay. And you know he gave that to you
 04:17:59 13 because he said, "Here's the code you asked
 04:18:01 14 for" --
 04:18:02 15 A. Yes.
 04:18:03 16 Q. -- correct?
 04:18:05 17 All right. Did you ever discuss with
 04:18:07 18 Mr. Gao whether or not he had stripped out
 04:18:08 19 any code that was attributable to Mr.
 04:18:10 20 Zuckerberg?
 04:18:11 21 A. I don't believe we had that discussion.
 04:18:15 22 Q. Okay. That was easy. Did the version that
 04:18:17 23 Mr. Gao gave you and that you gave to your
 04:18:21 24 attorneys to deposit with the copyright
 04:18:23 25 office, did it include code from the connect

04:16:50 1 that's what Mark Zuckerberg did.
 04:16:51 2 Q. But you know what? My question -- the
 04:16:53 3 problem that I'm having is that you're not
 04:16:54 4 answering my question. My question went
 04:16:57 5 simply to your conversations with Mr. Gao,
 04:16:59 6 and you're like two or three steps ahead of
 04:17:02 7 me --
 04:17:03 8 A. Okay.
 04:17:03 9 Q. -- about, you know, whether code if it's
 04:17:04 10 copied over. I'm asking you about a
 04:17:06 11 specific question about your conversation
 04:17:07 12 with Mr. Gao, and that's what I'd like you
 04:17:09 13 to answer.
 04:17:10 14 Did you ever discuss with Mr. Gao,
 04:17:11 15 No. 1, whether he stripped out any code that
 04:17:13 16 was written by Mark Zuckerberg?
 04:17:15 17 A. Okay. I -- to the best of my recollection,
 04:17:18 18 I asked Mr. Gao, "Is any of Mark
 04:17:22 19 Zuckerberg's code -- like, we need code --
 04:17:24 20 we need the HarvardConnection without Mark
 04:17:27 21 Zuckerberg's code," okay? And I don't
 04:17:29 22 remember if Mr. Gao had to take something
 04:17:32 23 out. It's my assumption that --
 04:17:35 24 Q. I don't want your assumption.
 04:17:37 25 A. Okay. I believe that Mr. Gao -- well,

04:18:26 1 side of HarvardConnection?
 04:18:28 2 A. I believe that, to the best of my knowledge,
 04:18:33 3 it would contain code that we would have
 04:18:35 4 written from the connect side. You know,
 04:18:37 5 there was parts of the connect side that
 04:18:39 6 worked, yes.
 04:18:41 7 Q. Okay. So the answer to my question was yes?
 04:18:43 8 A. Yes, there was some connect code.
 04:18:44 9 Q. In November 2003 who owned the
 04:19:15 10 HarvardConnection source code?
 04:19:16 11 MR. HORNICK: Objection, calls for
 04:19:17 12 a legal conclusion, but you can answer it.
 04:19:18 13 MR. HAWK: I just want the
 04:19:19 14 witness's understanding.
 04:19:21 15 Q. Who owned that code?
 04:19:26 16 A. November 2003 who owned that code.
 04:19:33 17 Q. And if you don't know, you can tell me that.
 04:19:40 18 A. At that point I don't know from a legal
 04:19:43 19 standpoint who would own that code, no.
 04:19:48 20 Q. In January 2004 who owned, according to your
 04:19:52 21 understanding, the HarvardConnection code?
 04:19:54 22 A. Well, certainly we owned parts of the code.
 04:20:20 23 I can -- you know, all the contract work
 04:20:22 24 that we did we absolutely owned.
 04:20:23 25 Q. Who is "we"?

04:20:24 1 A. "We" being --
 04:20:26 2 Q. Who is the "we" that owned the code in
 04:20:28 3 2000 -- January --
 04:20:28 4 A. Okay.
 04:20:30 5 Q. -- 2004?
 04:20:30 6 A. Myself. You know, I paid the programmer. I
 04:20:32 7 owned the code. I owned Victor Gao and Joe
 04:20:35 8 Jackson's code.
 04:20:36 9 Q. All right. So in January 2004 Cameron
 04:20:39 10 Winklevoss owned the HarvardConnection code?
 04:20:41 11 A. Sure.
 04:20:41 12 Q. That's true?
 04:20:43 13 A. Yes.
 04:20:43 14 Q. Okay. In September 2004 who owned the
 04:20:51 15 HarvardConnection code?
 04:20:52 16 A. Well, at that point we, you know, had become
 04:20:59 17 a business entity, so I would say ConnectU
 04:21:01 18 owned that code.
 04:21:02 19 Q. So ConnectU owned the code in September
 04:21:09 20 2004.
 04:21:09 21 When did -- when, if you in fact did,
 04:21:12 22 when did you convey the code -- the
 04:21:14 23 HarvardConnection code to ConnectU?
 04:21:16 24 A. Well, when the company -- I mean, assuming
 04:21:21 25 that I owned it when we formed the business

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4:21:24 1 entity, that's when I would have, you
 04:21:28 2 know --
 04:21:29 3 Q. I don't know what you would have done. I
 04:21:31 4 want to know what happened. I want to know
 04:21:33 5 when you -- if it in fact occurred, when did
 04:21:35 6 you as owner of the HarvardConnection code
 04:21:38 7 convey that code to ConnectU?
 04:21:40 8 MR. HORNICK: Objection, calls for
 04:21:40 9 a legal conclusion, but you can answer if
 04:21:45 10 you can.
 04:21:45 11 A. Well, I know for a fact that the code was
 04:21:47 12 signed over in, I believe, July of 2004 by
 04:21:50 13 Victor and, you know, all -- you guys have
 04:21:54 14 the document where -- what exhibit was
 04:21:55 15 it? -- where it was signed over to --
 04:22:02 16 Q. The LLC agreement? Is that what you're
 04:22:04 17 referring to?
 04:22:04 18 A. The business entity.
 04:22:05 19 Q. Yeah, that was July 2005.
 04:22:07 20 A. See, this one, you know, copyright
 04:22:10 21 claimants, they gave their rights to
 04:22:12 22 ConnectU. And ConnectU was created March
 04:22:16 23 26th, 2004, and this would have happened
 04:22:19 24 around July/August of 2004.
 4:22:22 25 Q. All right. So in June of 2004 you gave the

04:22:31 1 HarvardConnection code to ConnectU; is that
 04:22:33 2 your testimony?
 04:22:33 3 A. I -- okay. Joseph Jackson and Victor Gao
 04:22:40 4 and Sanjay gave -- signed over their rights
 04:22:45 5 and/or gave co-ownership to ConnectU of the
 04:22:49 6 code that they owned.
 04:22:51 7 Q. Right. But I -- we were on a track where
 04:22:53 8 you owned the code. Your testimony is that
 04:22:55 9 you --
 04:22:56 10 A. I owned parts of the code. I owned parts of
 04:22:58 11 the code. So there's various owners, and it
 04:23:00 12 was transferred at different times --
 04:23:02 13 Q. Okay.
 04:23:02 14 A. -- but I have been a constant owner from
 04:23:06 15 September 2003 to today, okay?
 04:23:10 16 Q. What parts of the code did you own?
 04:23:11 17 A. I owned a good portion of the code. I owned
 04:23:14 18 all the code that Victor Gao wrote, and that
 04:23:18 19 was a big bulk of the back end. And I've
 04:23:20 20 owned that from Day 1.
 04:23:23 21 Q. Okay. So the parts of the code that you've
 04:23:26 22 always owned have been Mr. Gao's parts, the
 04:23:28 23 parts that he wrote --
 04:23:29 24 A. Yes.
 04:23:30 25 Q. -- correct?

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04:23:31 1 A. Uh-huh.
 04:23:31 2 Q. Right?
 04:23:32 3 A. Uh-huh.
 04:23:32 4 Q. You have to say yes or --
 04:23:32 5 A. Yes.
 04:23:33 6 Q. -- right or something like that.
 04:23:34 7 A. Yes.
 04:23:36 8 Q. And it's your testimony that at some point
 04:23:39 9 you gave Victor Gao's code to ConnectU; is
 04:23:43 10 that right?
 04:23:43 11 A. Yeah, either I did or -- we basically --
 04:23:52 12 yes, I did. Yeah. Victor gave it to me,
 04:23:54 13 and then I gave it to --
 04:23:55 14 Q. And when did you give the Victor Gao written
 04:23:59 15 code to ConnectU? When did that happen?
 04:24:03 16 MR. HORNICK: Objection, calls for
 04:24:04 17 a legal conclusion, legal expertise, and
 04:24:06 18 this is a waste of time, but other than
 04:24:08 19 that, you can answer.
 04:24:08 20 A. Well, I would say, you know, when we formed
 04:24:15 21 the entity ConnectU in March 26th '04,
 04:24:19 22 that's when I would have given it, because I
 04:24:21 23 formed the entity.
 04:24:22 24 Q. Did you sign any writing, do anything in
 04:24:24 25 writing to give over that code to ConnectU

04:24:27 1 at that point?

04:24:27 2 A. In writing at that point, I don't believe I

04:24:34 3 did, no.

04:24:37 4 Q. At that time or prior did you have any

04:24:40 5 discussions with anyone during which you

04:24:44 6 indicated that you were giving the Victor

04:24:47 7 Gao written code to ConnectU?

04:24:49 8 A. Did I have any discussions? Well, again,

04:25:08 9 you know, I'm not a lawyer. My partners

04:25:10 10 aren't lawyers. We may not have had a -- we

04:25:13 11 did not have a discussion -- I personally

04:25:15 12 gave it to ConnectU. I'm a member of

04:25:17 13 ConnectU. Did I tell Divya and Tyler "I'm

04:25:22 14 giving the rights of the source code to

04:25:24 15 ConnectU"? No, on the --

04:25:24 16 Q. Right.

04:25:25 17 A. -- 26th --

04:25:25 18 Q. Right.

04:25:26 19 A. -- of '04.

04:25:27 20 Q. Okay. So you gave it, it's just that there

04:25:29 21 was no writing and no discussion --

04:25:30 22 A. I didn't write it --

04:25:30 23 Q. -- of this, correct?

04:25:30 24 A. -- down and put it in an e-mail and say,

04:25:33 25 "This is what I'm doing."

04:26:44 1 e-mails, but I believe that we talked about

04:26:46 2 a co-ownership. I think so.

04:26:50 3 Q. Did ConnectU or anyone else give anything of

04:26:52 4 value to Mr. Mavinkurve for his agreement to

04:26:55 5 transfer his rights in the code to ConnectU?

04:26:59 6 A. We -- no, we did not give any value to --

04:27:02 7 anything of value with respect to that, no.

04:27:07 8 Q. What -- when you communicated with Mr.

04:27:10 9 Mavinkurve about assigning his rights to

04:27:13 10 ConnectU, did you tell him why you wanted

04:27:16 11 him to do that?

04:27:18 12 MR. HORNICK: Objection, assumes

04:27:19 13 facts not in evidence. You can answer.

04:27:21 14 A. I believe that when I sent an e-mail to him

04:27:26 15 stating that, you know -- regarding the

04:27:30 16 rights and whatnot, that -- as to why we

04:27:39 17 need the authorship, I believe I indicated

04:27:41 18 that we just needed to basically get our

04:27:44 19 ducks in a row. This is our code, and we

04:27:47 20 need to formalize it.

04:27:48 21 Q. So does Mr. Mavinkurve still have an

04:27:55 22 ownership interest in the code per your

04:27:57 23 understanding?

04:27:58 24 A. Per my understanding, I believe he's able to

04:28:00 25 use it at will.

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04:25:47 1 Q. Okay. So Sanjay has entered into an

04:25:50 2 agreement, Sanjay -- how do you say his last

04:25:52 3 name?

04:25:52 4 A. Mavinkurve.

04:25:53 5 Q. Mavinkurve. Sanjay Mavinkurve has entered

04:25:56 6 into an agreement with ConnectU LLC, it's

04:26:01 7 your understanding --

04:26:01 8 A. Uh-huh.

04:26:02 9 Q. -- where Mr. Mavinkurve conveyed his rights

04:26:04 10 to HarvardConnection code to ConnectU?

04:26:07 11 MR. HORNICK: Objection, calls for

04:26:07 12 a legal expertise, but you can answer if you

04:26:09 13 can.

04:26:09 14 A. I believe we have a co- -- an authorship or

04:26:14 15 a co-ownership of the code, ability to use

04:26:16 16 it.

04:26:16 17 Q. There was a written agreement somewhere,

04:26:19 18 correct?

04:26:19 19 A. I believe so. I believe we produced it,

04:26:22 20 yeah.

04:26:22 21 Q. Did you talk to Mr. Mavinkurve about this

04:26:25 22 agreement? Have you ever?

04:26:26 23 A. We -- yes, we exchanged e-mails, I believe.

04:26:31 24 Actually, wait. Let me think. I believe

04:26:41 25 that there -- I can't recall if there was

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04:28:04 1 Q. Okay. Does Mr. Gao still have any ownership

04:28:07 2 interest in the HarvardConnection code --

04:28:09 3 A. He does not.

04:28:10 4 Q. -- per your understanding?

04:28:11 5 A. He does not.

04:28:12 6 Q. Did Mr. Gao assign his rights to the

04:28:15 7 HarvardConnection code --

04:28:17 8 A. Yes.

04:28:17 9 Q. -- to ConnectU?

04:28:18 10 A. Yes, he did.

04:28:19 11 Q. When did he do that?

04:28:20 12 A. Well, as I said, the moment we had a

04:28:25 13 development for hire, when he -- when I

04:28:28 14 hired him to write work and I paid him for

04:28:30 15 work, his contract was to write code for me.

04:28:33 16 So I own that code, okay? When he wrote

04:28:36 17 that code over to me was July 2004, but I

04:28:40 18 effectively owned it the day he -- I paid

04:28:43 19 him for the code.

04:28:45 20 Q. Okay.

04:28:45 21 A. Does that make sense?

04:28:47 22 Q. Other than the -- you think you paid him

04:28:49 23 about \$200 altogether?

04:28:51 24 A. Could have been more, up -- a little more

04:28:55 25 than that, I would say.

04:28:56 1 Q. How much?
 04:28:56 2 A. I would say maybe closer to \$400.
 04:28:59 3 Q. Okay. And you made those payments at or
 04:29:02 4 near the time he was doing the coding,
 04:29:04 5 correct?
 04:29:04 6 A. Yes. It would have been right after
 04:29:08 7 completion, yeah.
 04:29:08 8 Q. In July 2004 when Mr. Gao entered into some
 04:29:15 9 further agreement with you or ConnectU
 04:29:18 10 regarding the code, did he receive at that
 04:29:20 11 time anything of value --
 04:29:22 12 A. No.
 04:29:22 13 Q. -- from you?
 04:29:23 14 A. No.
 04:29:26 15 Q. Did you have any communications with Mr. Gao
 04:29:27 16 about why you wanted him to enter into this
 04:29:31 17 agreement in July 2004?
 04:29:32 18 A. As I said before, this was actually really
 04:29:36 19 an agreement that already had been entered
 04:29:39 20 into. It was more of a formalization. His
 04:29:41 21 signing over of copyright, I could have
 04:29:44 22 given that to him -- the moment he wrote
 04:29:45 23 code for me, it was my ownership.
 04:29:48 24 Q. Again, my question was, did you have any
 04:29:50 25 communications with him regarding him

04:30:58 1 the code, correct?
 04:30:58 2 A. Uh-huh.
 04:31:02 3 Q. Yes?
 04:31:02 4 A. Yes. Yes.
 04:31:03 5 Q. Did Mr. Jackson also sign a written
 04:31:05 6 agreement conveying rights -- his rights in
 04:31:08 7 HarvardConnection code to ConnectU in July
 04:31:12 8 2004?
 04:31:12 9 A. He did.
 04:31:12 10 Q. Did you have any communications with Mr.
 04:31:14 11 Jackson regarding that?
 04:31:15 12 A. Yes. With Mr. Jackson as well, he did work
 04:31:21 13 for hire. And I owned that code when I paid
 04:31:25 14 him for the code, and I told him that I
 04:31:26 15 needed to formalize my relationship with him
 04:31:28 16 in July 2004.
 04:31:32 17 Q. Did -- was there any discussion of any
 04:31:34 18 further payment to Mr. Jackson?
 04:31:35 19 A. No.
 04:31:37 20 Q. How much did you pay Mr. Jackson at the time
 04:31:39 21 he did the coding?
 04:31:39 22 A. Maybe \$100, not very much.
 04:31:45 23 Q. Did you discuss with any of these
 04:31:47 24 individuals the possibility of an agreement
 04:31:51 25 that they might share in any recovery that

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4:29:53 1 signing over the right to the --
 04:29:56 2 A. Yes, we did --
 04:29:56 3 Q. -- code in July 2004?
 04:29:58 4 A. Yes. Yes. That's how --
 04:30:00 5 Q. Give me your best recollection of those
 04:30:01 6 conversations --
 04:30:01 7 A. Okay.
 04:30:02 8 Q. -- or e-mails.
 04:30:02 9 A. The best recollection is that I needed to
 04:30:09 10 obtain the correct copyright license for it.
 04:30:11 11 And I asked him for it and he gave it to me.
 04:30:15 12 Q. And did you tell him why you wanted to, as
 04:30:17 13 you put it, obtain the correct copyright
 04:30:20 14 license for it?
 04:30:21 15 A. I believe that I told him essentially that
 04:30:27 16 we need an ownership -- or I needed to
 04:30:30 17 rather solidify the ownership that I had of
 04:30:33 18 the code, the existing ownership.
 04:30:38 19 Q. Did you tell him it was in connection with
 04:30:40 20 the lawsuit?
 04:30:40 21 A. I may have mentioned that we were going to
 04:30:44 22 go to trial and that I -- and that in order
 04:30:48 23 to do so, I would need to solidify the
 04:30:51 24 existing ownership that I had of the code.
 4:30:53 25 Q. Mr. Jackson, he was also a contributor to

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04:31:55 1 you might obtain from this lawsuit?
 04:31:57 2 A. No.
 04:31:57 3 Q. Nobody raised that?
 04:31:58 4 A. No, nobody raised that.
 04:32:29 5 Q. Let's shift gears a little bit. As of
 04:32:31 6 November 2003 at the time that you allegedly
 04:32:36 7 engaged Mr. Zuckerberg to work with you, how
 04:32:41 8 many coding hours remained to be done to
 04:32:43 9 finish the HarvardConnection website so that
 04:32:46 10 it could be launched?
 04:32:47 11 A. I can't say that specifically, because I'm
 04:32:54 12 not a computer programmer.
 04:32:56 13 Q. So the answer is you don't know?
 04:33:01 14 A. The answer is how many hours he could
 04:33:04 15 have -- he could have ascertained how many
 04:33:07 16 hours. I don't know how many hours.
 04:33:10 17 Q. Okay.
 04:33:10 18 A. My assumption, though, was, based on Victor
 04:33:13 19 Gao's accounts, that a large portion of the
 04:33:20 20 website had been completed.
 04:33:20 21 Q. Okay. So let me just try and recap here.
 04:33:25 22 In November 2003, you of your own knowledge,
 04:33:30 23 you were not aware of how many programming
 04:33:32 24 hours were necessary to finish the
 04:33:35 25 HarvardConnection website, correct?

04:33:37 1 A. I would be aware that it's less than what we
 04:33:42 2 already put into the site and that it was
 04:33:45 3 closer to completion, but an exact hour
 04:33:48 4 number I would not be aware of, no.
 04:33:50 5 Q. Okay. Well, now I'm going to -- and so now
 04:33:53 6 I'll ask you about beliefs. I told you --
 04:33:55 7 A. Okay. Sure.
 04:33:56 8 Q. -- that unless I told you, I wasn't going to
 04:33:58 9 be asking you --
 04:33:58 10 A. Right.
 04:33:59 11 Q. -- about your beliefs.
 04:33:59 12 MR. HORNICK: And I'll warn you not
 04:34:01 13 to speculate.
 04:34:04 14 Q. Did you believe that less than 10 hours of
 04:34:08 15 work was necessary to complete the
 04:34:11 16 HarvardConnection website so that it could
 04:34:13 17 be launched as of late November 2003?
 04:34:33 18 A. I believe that there was perhaps --
 04:34:34 19 according to Victor's accounts of what
 04:34:36 20 needed to basically be tied up on the
 04:34:37 21 connect side -- again, a lot of the
 04:34:40 22 functionality is the same, so if you do the
 04:34:42 23 date side, you can use that functionality
 04:34:44 24 for the connect side and vice versa, is that
 04:34:49 25 it would not -- it's not a task that should

04:36:08 1 would lend it to be true, I would think.
 04:36:09 2 Q. Well, I'll object. I'm going to move to
 04:36:11 3 strike your last answer --
 04:36:12 4 A. Okay.
 04:36:12 5 Q. -- you know? And let me ask the question
 04:36:14 6 again. Sometimes it --
 04:36:15 7 A. I'm just telling you --
 04:36:17 8 Q. Well, you know, the problem is I ask
 04:36:19 9 specific questions, and I am entitled to
 04:36:21 10 answers --
 04:36:21 11 A. Sure.
 04:36:21 12 Q. -- to those questions without a bunch of
 04:36:23 13 other --
 04:36:23 14 A. Right.
 04:36:23 15 Q. -- stuff tacked on.
 04:36:24 16 MR. HORNICK: No, that's not true.
 04:36:26 17 He can answer --
 04:36:26 18 MR. HAWK: It's absolutely true --
 04:36:26 19 MR. HORNICK: -- the question
 04:36:27 20 however he wants.
 04:36:27 21 MR. HAWK: -- and we're not going
 04:36:27 22 to argue about it.
 04:36:27 23 A. I'll reanswer the question.
 04:36:27 24 MR. HAWK: Yeah, he's going to
 04:36:27 25 reanswer. He's more cooperative than you

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04:34:51 1 be exorbitant.
 04:34:53 2 Let me preface that, though, or rather
 04:34:55 3 just caution that when we outlined the
 04:35:03 4 undertaking, what was required, we gave the
 04:35:06 5 developer the source code to assess their
 04:35:09 6 own estimate of time. You know, just like
 04:35:12 7 you don't ask -- you don't go to your car
 04:35:15 8 dealership and tell them how long your
 04:35:17 9 transmission's going to take, you give them
 04:35:18 10 the car and they take a look.
 04:35:20 11 So -- but to answer -- you know, to
 04:35:22 12 get back to your question, I would say that
 04:35:29 13 I was fairly -- I was under the impression
 04:35:30 14 that the connect side of the website, those
 04:35:32 15 specific pages tying up the registration,
 04:35:34 16 tying the profile and the searches would be
 04:35:38 17 about the ballpark of 10 to 15 hours, yes.
 04:35:41 18 Q. Okay. So it is correct that in November of
 04:35:43 19 2003 when you engaged, allegedly, Mr.
 04:35:48 20 Zuckerberg, you believed that 10 to 15 hours
 04:35:52 21 were all that was necessary to complete the
 04:35:56 22 website, correct?
 04:35:57 23 A. Yes. And in addition, Mr. Zuckerberg said
 04:36:00 24 that he had completed the website as of a
 04:36:04 25 couple days after our first meeting, so that

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1 are.
 04:36:33 2 BY MR. HAWK:
 04:36:33 3 Q. Let me reask the question --
 04:36:33 4 A. Okay.
 04:36:35 5 Q. -- okay? In November 2003 when you
 04:36:37 6 allegedly engaged Mr. Zuckerberg, your
 04:36:40 7 belief was that 10 to 15 hours was required
 04:36:43 8 to finish the HarvardConnection website?
 04:36:47 9 A. My belief, based on the fact that Mr.
 04:36:49 10 Zuckerberg said that he completed the code
 04:36:51 11 shortly after he began work on it, would
 04:36:54 12 lead to -- and this is my belief. And I'm
 04:36:56 13 giving you the facts as to why I'm basing my
 04:36:59 14 belief -- beliefs are based on sort of a set
 04:37:03 15 of facts that are, you know, in your
 04:37:04 16 repertoire, and my belief is that based on
 04:37:08 17 the expedient nature in which he said he
 04:37:11 18 completed the website, it was approximately
 04:37:13 19 10 to 15 hours' worth of work.
 04:37:16 20 Q. Sir, but I --
 04:37:16 21 MR. CHATTERJEE: I'm sorry, could
 04:37:17 22 the court reporter read your question back,
 04:37:19 23 please.
 04:37:20 24 THE WITNESS: I heard the question.
 04:37:22 25 MR. HORNICK: Yeah, I don't

04:37:22 1 think --

04:37:22 2 MR. CHATTERJEE: Could you read it

04:37:24 3 back, please?

04:37:24 4 MR. HORNICK: I don't think -- I

04:37:24 5 think you're harassing the witness.

04:37:24 6 MR. CHATTERJEE: I'm just trying to

04:37:26 7 hear what the question was.

04:37:26 8 MR. HAWK: Well, let's have the

04:37:28 9 question read back.

04:37:28 10 MR. CHATTERJEE: I just -- I want

04:37:28 11 to hear what it was.

04:37:29 12 MR. HAWK: Let's have the question

04:37:33 13 read back.

04:37:34 14 (Record read.)

04:37:48 15 MR. CHATTERJEE: Okay, "engaged."

04:37:50 16 Okay. Thank you.

04:37:53 17 BY MR. HAWK:

04:37:53 18 Q. All right. So let me just -- I'm going to

04:37:57 19 ask the question again, because I'm going to

04:37:58 20 move to strike your last answer because I

04:38:00 21 don't think it was responsive. I didn't ask

04:38:02 22 you about the basis of your belief. I

04:38:03 23 wanted to know what you believed in November

04:38:08 24 2003 when you engaged Mr. Zuckerberg,

04:38:10 25 according to your testimony, to work on the

04:39:03 1 Q. Fair enough.

04:39:03 2 A. -- belief.

04:39:03 3 Q. Fair enough.

04:39:04 4 A. And I was not -- I was not disabused of my

04:39:07 5 belief from Mr. Zuckerberg when I engaged

04:39:10 6 him.

04:39:10 7 Q. Okay. It was Mr. Gao -- did Mr. Gao tell

04:39:18 8 you in November of 2003 that approximately

04:39:20 9 10 to 15 hours of additional coding would be

04:39:23 10 necessary to finish the site?

04:39:24 11 A. I think he indicated that the functionality,

04:39:27 12 the connect functionality, that would be

04:39:31 13 about in that ballpark, I believe so.

04:39:32 14 Q. All right. So in -- when did you conclude

04:39:43 15 that Mr. Zuckerberg was not going to do any

04:39:46 16 more work on your website?

04:39:48 17 A. February 4th, 2004.

04:39:50 18 Q. Okay. All right. So on February 4th, 2004

04:39:55 19 was it your belief that there was about 10

04:39:58 20 to 15 hours' worth of work that needed to be

04:40:01 21 done to finish the HarvardConnection website

04:40:03 22 so that it could be launched?

04:40:05 23 A. As I said, there was a lot of -- there was a

04:40:09 24 lot of creativity that occurred in between

04:40:12 25 November 3rd -- do you mean the website that

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04:38:12 1 HarvardConnection website. I don't want to

04:38:14 2 know about what he later told you or any of

04:38:17 3 that because I want to know what your belief

04:38:20 4 was at the time, if you have one.

04:38:22 5 MR. HORNICK: Objection,

04:38:23 6 misleading, asked and answered. You can

04:38:25 7 answer it again.

04:38:26 8 Q. Okay. So my question is, in November 2003

04:38:28 9 when you allegedly engaged Mr. Zuckerberg to

04:38:32 10 finish coding on the HarvardConnection

04:38:34 11 website, it was your belief that

04:38:35 12 approximately 10 to 15 hours of coding was

04:38:38 13 needed, correct?

04:38:39 14 MR. HORNICK: Object to the form of

04:38:41 15 the question, but you can answer.

04:38:41 16 A. Well, again, I didn't -- I was not the

04:38:44 17 person who engaged Mr. Zuckerberg, okay?

04:38:48 18 Divya Narendra engaged him. And prior to my

04:38:50 19 engaging of him Victor Gao did, so by the

04:38:54 20 time I engaged Mr. Zuckerberg and he had

04:38:56 21 gone through those two meetings, I was under

04:38:59 22 the impression that it was about 10 to 15

04:39:01 23 hours.

04:39:03 24 Q. All right.

04:39:03 25 A. That was my --

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04:40:14 1 was on November 2003?

04:40:18 2 Q. I'm talking about the HarvardConnection

04:40:21 3 website, and I think you've testified

04:40:23 4 there's only been one version ever of the

04:40:25 5 HarvardConnection website.

04:40:26 6 A. Uh-huh.

04:40:26 7 Q. And what I want to know, you've told me that

04:40:29 8 as of -- in November 2003 you believed that

04:40:31 9 there was about 10 to 15 hours' worth of

04:40:34 10 work that needed to be done to complete that

04:40:36 11 website.

04:40:37 12 A. Uh-huh.

04:40:38 13 Q. On February 4, 2003 when you concluded --

04:40:42 14 A. 2004.

04:40:43 15 Q. I'm sorry, thank you. On February 4, 2004

04:40:46 16 when you concluded that Mr. Zuckerberg was

04:40:48 17 not going to do further work on your

04:40:52 18 website, did you believe that there still

04:40:54 19 remained 10 to 15 hours' worth of work to do

04:40:58 20 to complete the website?

04:40:59 21 A. To complete the connect side of, you know,

04:41:01 22 the project that he was supposedly going to

04:41:03 23 complete, yes, I would have believed that

04:41:06 24 would be 10 to 15 hours, yes.

04:41:08 25 Q. All right. And did you determine on

04:41:11 1 February 4th to get someone else to do that
 04:41:13 2 work?
 04:41:14 3 A. Well, yes. I mean, we looked around to
 04:41:18 4 other people, yeah.
 04:41:19 5 Q. Did you find someone to do that 10 to 15
 04:41:23 6 hours' worth of work?
 04:41:25 7 A. Well, what ended up happening is we
 04:41:29 8 eventually found iMarc. That's, you know,
 04:41:32 9 who we eventually -- and we started over
 04:41:34 10 again. Because at that point the code
 04:41:36 11 had -- see, Victor spent a lot of time
 04:41:39 12 bringing Mark up to speed with the code, and
 04:41:42 13 code had been through a lot of different
 04:41:43 14 hands, and at that point to sort of patch it
 04:41:48 15 up is sometimes harder than to start again.
 04:41:52 16 Q. Why was it harder in February 2004 to put in
 04:41:57 17 the 10 to 15 hours' worth of work to
 04:42:00 18 complete the code than it would have been in
 04:42:02 19 November 2003?
 04:42:06 20 MR. HORNICK: Objection,
 04:42:08 21 misleading. You can answer.
 04:42:08 22 A. It couldn't have been. It would have
 04:42:10 23 theoretically been 10 to 15 -- assuming that
 04:42:13 24 my belief of 10 to 15 hours is correct, then
 04:42:15 25 it would have been -- to finish the same

04:43:06 1 specific. What did Animal 57 tell you about
 04:43:08 2 the HarvardConnection code that led you to
 04:43:11 3 conclude that it should not be finished and
 04:43:13 4 that you should start over?
 04:43:14 5 A. They told us that it was not robust, that it
 04:43:19 6 wouldn't withhold a lot of users, and that
 04:43:24 7 was their belief.
 04:43:25 8 Q. Did you -- did you believe them?
 04:43:31 9 A. We did believe them, yeah.
 04:43:33 10 Q. And this belief that the HarvardConnection
 04:43:38 11 code would not have been robust enough to
 04:43:40 12 succeed, that was the basis of your
 04:43:43 13 conclusion to start over, correct?
 04:43:45 14 A. Well, it was that -- it was that, coupled --
 04:43:50 15 their belief that it wouldn't be robust --
 04:43:53 16 my belief is that they wanted to charge us
 04:43:55 17 more and do more work. That is my belief,
 04:43:58 18 and that's my -- I think that, coupled
 04:44:00 19 with -- as I said before, when you have code
 04:44:02 20 going through many different hands, you have
 04:44:05 21 different programmers, different styles, and
 04:44:07 22 it's sometimes harder to sort of try and
 04:44:10 23 patch up what's there than start again.
 04:44:12 24 Q. Well, that was true in November of 2003,
 04:44:16 25 correct?

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04:42:17 1 work in February would be the same amount of
 04:42:19 2 time.
 04:42:19 3 Q. And it was important that you'd get this
 04:42:21 4 first-mover advantage or that you'd get --
 04:42:25 5 that you launched the website as soon as you
 04:42:27 6 could, right?
 04:42:27 7 A. Uh-huh. Yes.
 04:42:28 8 Q. Why didn't you go ahead and have somebody do
 04:42:30 9 that 10 to 15 hours of work in February
 04:42:36 10 2004?
 04:42:36 11 A. Well, the first developer, Animal 57, that
 04:42:39 12 we talked to convinced us that the site was
 04:42:41 13 not, you know -- it was not robust enough
 04:42:45 14 and that it was better to write it -- try
 04:42:48 15 and write it again.
 04:42:50 16 Q. What did -- it was Animal 57?
 04:42:52 17 A. Yeah.
 04:42:53 18 Q. 157?
 04:42:54 19 A. 57, yeah.
 04:42:55 20 Q. What did Animal 157 tell you about the code?
 04:42:59 21 MR. HORNICK: 57, Animal 57.
 04:43:01 22 A. The --
 04:43:02 23 Q. I'm sorry, let me rephrase.
 04:43:02 24 A. Sure.
 04:43:05 25 Q. I was going to be a little bit more

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04:44:16 1 A. Well, Victor -- as I said, Victor spent a
 04:44:19 2 lot of time with Mark. He was supposedly
 04:44:21 3 very skilled, and he brought him up to speed
 04:44:24 4 with the code. And Mark went through the
 04:44:26 5 code a lot and poked around and learned
 04:44:28 6 about it and was brought up to speed with
 04:44:31 7 it, so --
 04:44:32 8 Q. Right. But that didn't change the code,
 04:44:34 9 that's your testimony, right, that Mark
 04:44:37 10 Zuckerberg really didn't affect the code, or
 04:44:39 11 is that -- or is that right?
 04:44:40 12 A. Well, no. Sorry, what were you saying?
 04:44:43 13 That --
 04:44:45 14 Q. I'm just saying in November -- let's just --
 04:44:47 15 let's go back to where we are about the code
 04:44:49 16 not being robust enough.
 04:44:52 17 A. Right.
 04:44:52 18 Q. Animal 57 told you guys that the
 04:44:56 19 HarvardConnection code was not robust enough
 04:44:58 20 to be successful?
 04:44:59 21 A. It was their opinion, yes.
 04:45:01 22 Q. Right.
 04:45:01 23 A. And --
 04:45:01 24 Q. And you ultimately agreed with that opinion,
 04:45:03 25 correct?

04:45:04 1 A. We -- yes, we did.
 04:45:05 2 Q. And that was the reason in fact that
 04:45:11 3 HarvardConnection/ConnectU decided to write
 04:45:14 4 a whole new code base for ConnectU, correct?
 04:45:17 5 A. Yes.
 04:45:18 6 Q. Okay.
 04:45:18 7 A. Yes.
 04:45:18 8 Q. All right.
 04:45:25 9 A. But, you know, if I could add that it was
 04:45:27 10 not under Victor's -- that was not Victor's
 04:45:30 11 impression. And it was never made clear
 04:45:32 12 from us by Mark that that was his
 04:45:34 13 impression, that it was not robust enough,
 04:45:36 14 the code.
 04:45:42 15 Q. Well, let's look -- let's look at Victor's
 04:45:44 16 e-mail, or I think it's your e-mail to
 04:45:46 17 Victor, if we can find it. I think it's
 04:45:49 18 Exhibit 15. Would you get Exhibit 15 --
 04:45:55 19 A. Sure.
 04:45:55 20 Q. -- in front of you, please. Exhibit 15 is
 04:46:09 21 an e-mail that you wrote to Victor Gao on
 04:46:12 22 January 25, 2004, correct?
 04:46:14 23 A. Uh-huh.
 04:46:14 24 Q. Yes?
 04:46:14 25 A. (No verbal response.)

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04:46:18 1 Q. And you say to Mr. Gao that on January 25th,
 04:46:21 2 2004, "The bulk of the site, however, has
 04:46:24 3 been completed."
 04:46:25 4 Do you see that?
 04:46:28 5 A. What line is that? Yeah, yeah.
 04:46:30 6 Q. It's -- okay. What was the basis for your
 04:46:33 7 statement on January 25, 2004 that the bulk
 04:46:37 8 of the site had been completed?
 04:46:38 9 A. Well, based on both Victor and Mark's
 04:46:43 10 accounts, Victor said that, you know, that
 04:46:45 11 most of the date -- he had completed the
 04:46:47 12 date side. I mean, when he -- when he sort
 04:46:50 13 of presented the project to Mark, he
 04:46:52 14 presented it as the bulk of it being done.
 04:46:55 15 When Mark wrote in e-mails to us he
 04:46:57 16 presented it as almost being done. You
 04:47:01 17 know, every time he wrote about the site it
 04:47:03 18 was almost done, so that's my -- that was my
 04:47:06 19 belief that it was almost -- the bulk of it
 04:47:08 20 was complete.
 04:47:09 21 Q. Okay. So your belief in January 25 -- on
 04:47:14 22 January 25, 2004 that the bulk of the site
 04:47:17 23 had been completed, that was based on what
 04:47:18 24 you had heard from Victor Gao and Mark
 04:47:23 25 Zuckerberg, correct?

04:47:23 1 A. Correct.
 04:47:24 2 Q. And did you subsequently find out anything
 04:47:26 3 that contradicted that conclusion?
 04:47:28 4 A. Well, if you look at -- well, sure,
 04:47:35 5 absolutely. I think Victor found out
 04:47:36 6 that -- see, at this point we were under the
 04:47:38 7 impression that Mark had done a fair bit
 04:47:41 8 more work than he had done. And when we --
 04:47:44 9 yes, we found out later that it was further
 04:47:48 10 from completion.
 04:47:50 11 Q. That it was -- okay. All right. How many
 04:48:00 12 hours away from -- I think we've already
 04:48:02 13 covered that. We've already covered -- what
 04:48:04 14 was Mr. Gao's response to this January 25th,
 04:48:06 15 2004 e-mail that you sent him asking him to
 04:48:09 16 get involved in HarvardConnection again?
 04:48:12 17 A. Well, clearly he didn't get involved. He --
 04:48:17 18 you know, it was his thesis, and I don't
 04:48:20 19 think he could have done it.
 04:48:22 20 THE WITNESS: Is it possible to --
 04:48:24 21 for me to take a quick bathroom break?
 04:48:24 22 MR. HAWK: Oh, absolutely.
 04:48:26 23 THE WITNESS: I have to go really
 04:48:28 24 badly. I was just --
 04:48:29 25 MR. HAWK: Okay. All right. Sure.

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04:48:31 1 Let's take a break.
 04:48:31 2 THE VIDEOGRAPHER: The time is
 04:48:34 3 4:48. This is the end of Tape 5, and we are
 04:48:38 4 off the record.
 04:48:39 5 (Recess taken.)
 04:57:36 6 THE VIDEOGRAPHER: The time is
 04:57:39 7 4:57. This is the beginning of Tape 6, and
 04:57:41 8 we are back on the record.
 04:57:43 9 BY MR. HAWK:
 04:57:43 10 Q. Mr. Winklevoss, would you please get Exhibit
 04:57:46 11 2, the ConnectU complaint, in front of you.
 04:57:49 12 A. Sure.
 04:57:49 13 Q. Here it is. Would you please turn to Page 5
 04:58:02 14 of the ConnectU complaint, Paragraph 21. By
 04:58:06 15 the way, did you -- did you read over this
 04:58:08 16 complaint before it was filed?
 04:58:09 17 A. Yes, I did.
 04:58:10 18 Q. And when you read it over, did you believe
 04:58:14 19 that the statements made in the complaint,
 04:58:16 20 the factual statements were true and
 04:58:18 21 correct?
 04:58:19 22 A. I would say, to the best of my knowledge,
 04:58:21 23 yes.
 04:58:22 24 Q. Well, were there certain statements in here
 04:58:25 25 that you believe were incorrect?

04:58:28 1 A. Do you want to ask me a specific statement
 04:58:33 2 that --
 04:58:34 3 Q. No. What I want to know is -- you said that
 04:58:36 4 you read over the complaint, and I want to
 04:58:38 5 know if when you read it over, do you recall
 04:58:40 6 thinking that any of the statements in it
 04:58:42 7 were incorrect?
 04:58:44 8 A. I believed that the statements were correct,
 04:58:48 9 to the best of my knowledge, at the time.
 04:58:50 10 Q. Okay. All right. Well, let's look at
 04:58:53 11 Paragraph 21. You've already been asked
 04:58:58 12 some questions about that paragraph, but is
 04:59:00 13 there anything in that paragraph that, as
 04:59:03 14 you sit here today, that you believe is
 04:59:06 15 incorrect?
 04:59:08 16 A. I'm not sure "incorrect" is the right word
 04:59:12 17 or the correct word, for that matter. The
 04:59:16 18 HarvardConnection code, as we've mentioned,
 04:59:18 19 there was no definitive way, I guess you
 04:59:21 20 could say, that I knew that Mr. Saverin had
 04:59:26 21 seen that code; however, I believe that the
 04:59:29 22 code is inextricably linked to the business
 04:59:32 23 plan, the model. And from that belief, I
 04:59:34 24 believe that Paragraph 21 is correct and
 04:59:38 25 accurate.

05:00:43 1 November 2003 to February 2004 Defendant
 05:00:46 2 Zuckerberg shared plaintiff's confidential
 05:00:49 3 business information with Defendant Saverin?
 05:00:52 4 MR. HORNICK: Objection, asked and
 05:00:53 5 answered. You can answer it again.
 05:00:58 6 A. Again, Mr. Saverin was privy to the
 05:01:01 7 development of Thefacebook and was involved
 05:01:03 8 prior to the coding in the concept and the
 05:01:05 9 co-creation of Thefacebook, as I've stated
 05:01:08 10 before, and I believe that Thefacebook has
 05:01:11 11 misappropriated confidential business
 05:01:13 12 information. Therefore, it's upon that
 05:01:15 13 belief that I believe that he was -- Mr.
 05:01:20 14 Zuckerberg shared that information with him.
 05:01:24 15 Q. Okay. Now, you say that Mr. Saverin
 05:01:32 16 "knowingly used, and continued to use" the
 05:01:37 17 HarvardConnection code. Do you see that?
 05:01:41 18 It's the remainder of Paragraph 21.
 05:01:48 19 A. Yes.
 05:01:52 20 Q. When did Defendant Saverin knowingly use the
 05:01:56 21 HarvardConnection code?
 05:01:56 22 A. The English there is perhaps a little bit
 05:02:01 23 confusing. Let me just read this again.
 05:02:26 24 (Witness reviews document.)
 05:02:26 25 A. Okay. I mean, based on -- as I said before,

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04:59:39 1 Q. Okay. So you do believe Paragraph 21 is --
 04:59:42 2 A. Yes.
 04:59:42 3 Q. -- accurate? Okay. Fair enough.
 04:59:45 4 Well, then let's talk about the
 04:59:49 5 particulars of Paragraph 21. 21 says,
 04:59:52 6 quote, "Defendant Zuckerberg shared
 04:59:56 7 Plaintiff's confidential business
 04:59:57 8 information and the HarvardConnection code
 04:59:58 9 with Defendants Saverin" -- and let's just
 05:00:01 10 stop with Mr. Saverin.
 05:00:05 11 What specific information did Mr.
 05:00:07 12 Zuckerberg share with Mr. Saverin?
 05:00:08 13 A. I don't know specific information.
 05:00:10 14 Q. And so you don't know when this supposed
 05:00:16 15 sharing of confidential business information
 05:00:19 16 or the HarvardConnection code with Defendant
 05:00:22 17 Saverin occurred, correct?
 05:00:23 18 A. I can give you a time frame.
 05:00:25 19 Q. Okay. Well, give me a time frame.
 05:00:26 20 A. I would say anywhere between November 2003
 05:00:29 21 and February -- you know, February 4th when
 05:00:33 22 Thefacebook launched, any time between that
 05:00:36 23 point -- but, yeah, that's a time frame I
 05:00:40 24 can give you.
 05:00:40 25 Q. And what's your basis for saying that from

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05:02:29 1 based on the belief that the code is
 05:02:31 2 inextricably linked with the business model
 05:02:35 3 and knowing that upon launch and upon the
 05:02:38 4 cease and desist letter, that we, you know,
 05:02:42 5 brought sort of issue with the website and
 05:02:44 6 what we believed were the use of the
 05:02:48 7 business information, that he continued and
 05:02:51 8 knowingly continued to use it.
 05:02:54 9 Q. So he knowingly -- when did he knowingly use
 05:02:57 10 the HarvardConnection code, Mr. Saverin?
 05:03:00 11 A. Mr. Saverin directly as in using that code
 05:03:04 12 to code would not have used it, most likely.
 05:03:07 13 Q. Okay.
 05:03:07 14 A. Would he have seen that code? You know,
 05:03:10 15 it's unclear in here whether that code
 05:03:12 16 really means the website, what a user can
 05:03:16 17 view and see, and it's our contention --
 05:03:22 18 it's my contention that he was able to see
 05:03:24 19 that website, saw that website and continued
 05:03:26 20 to use what he saw on that website or what,
 05:03:31 21 if you will, the code produced in the form
 05:03:33 22 of a website.
 05:03:34 23 Q. So, but the HarvardConnection code -- I just
 05:03:39 24 want to know, when did Mr. Saverin use the
 05:03:42 25 HarvardConnection code, not the

05:03:44 1 HarvardConnection website, but when did Mr.
 05:03:46 2 Saverin use the HarvardConnection code?
 05:03:48 3 A. The code by itself, he didn't. I would
 05:03:56 4 assume -- it would be my understanding that
 05:03:56 5 he would not have used the code itself.
 05:04:01 6 Q. Okay. Fine. When did Mr. Saverin knowingly
 05:04:02 7 use confidential business plans belonging to
 05:04:05 8 HarvardConnection?
 05:04:05 9 A. 2003, November to --
 05:04:10 10 Q. Sometime during --
 05:04:11 11 A. -- ad infinitum.
 05:04:14 12 Q. It is your contention that sometime in
 05:04:17 13 November 2003 to February 2004 Mr. Saverin
 05:04:22 14 knowingly used confidential business plans
 05:04:25 15 belonging to --
 05:04:27 16 A. Yes.
 05:04:27 17 Q. -- HarvardConnection?
 05:04:27 18 A. Yes.
 05:04:28 19 Q. But -- well, tell me this: You don't
 05:04:33 20 know, I think you've already testified, that
 05:04:35 21 Mr. Saverin was ever even aware of
 05:04:37 22 HarvardConnection prior to February 4?
 05:04:40 23 That's right, correct?
 05:04:42 24 MR. HORNICK: Objection,
 05:04:43 25 argumentative and mischaracterizes the

05:06:03 1 confidential business information of
 05:06:06 2 HarvardConnection, correct?
 05:06:06 3 MR. HORNICK: Objection,
 05:06:07 4 mischaracterizes.
 05:06:08 5 Q. Correct?
 05:06:09 6 A. I think you're conflating the issue.
 05:06:14 7 Knowing something and believing something
 05:06:16 8 are two different things. I can't knowingly
 05:06:18 9 say he used it. I believe he used it.
 05:06:20 10 Q. Okay.
 05:06:20 11 A. And I think we went over why I believe he
 05:06:22 12 used it. So --
 05:06:24 13 Q. Right. But let me try this again.
 05:06:27 14 A. All right.
 05:06:27 15 Q. I don't think we're quite communicating. I
 05:06:30 16 don't want to know what evidence you have,
 05:06:32 17 if any. I don't want to -- this is another
 05:06:33 18 one of those questions I don't want to know
 05:06:37 19 about your belief --
 05:06:38 20 A. Okay.
 05:06:38 21 Q. -- right now. I want to know if you have
 05:06:39 22 any evidence that my client, Mr. Saverin,
 05:06:41 23 knowingly used confidential information of
 05:06:43 24 HarvardConnection during the period November
 05:06:46 25 2003 up until February 4, 2004 when Facebook

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5:04:45 1 witness's testimony.
 05:04:46 2 MR. HAWK: We'll see if it's right.
 05:04:49 3 A. Well, I -- what I -- okay. I believe that
 05:04:49 4 the answer that I gave to your question was
 05:04:51 5 do I know if he used our website at -- or do
 05:04:54 6 I know that he used our business information
 05:04:56 7 and code between the time of November 2003
 05:05:01 8 to February 4, and I said to that --
 05:05:04 9 Q. Knowingly.
 05:05:04 10 A. Knowingly. Meaning that Mark Zuckerberg
 05:05:08 11 shared that code with him?
 05:05:09 12 Q. Meaning that he knew that some information
 05:05:11 13 that he had relating to Thefacebook came
 05:05:14 14 from HarvardConnection?
 05:05:16 15 A. I said that I was not -- okay. I said I was
 05:05:21 16 not sure. I did not say at that time that
 05:05:26 17 he knowingly used it. However, based upon
 05:05:31 18 the outcome of Thefacebook, which he was a
 05:05:37 19 co-creator at that time, it is my belief
 05:05:39 20 that he used it.
 05:05:43 21 Q. Okay. I want to ask you now, not about your
 05:05:45 22 belief, but your knowledge of facts. In the
 05:05:47 23 period from November 2003 to February 4,
 05:05:50 24 2004, you're not aware of any evidence that
 :05:55 25 Mr. Saverin knowingly used confidential --

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05:06:53 1 was launched?
 05:06:53 2 A. My evidence, which I've stated and on which
 05:06:57 3 I've formed my belief, however, the evidence
 05:07:00 4 is that Thefacebook.com website of which he
 05:07:03 5 was a co-creator during that time period
 05:07:05 6 utilized traits and misappropriated trade
 05:07:08 7 secrets and business information from
 05:07:09 8 HarvardConnection.
 05:07:11 9 Q. Okay.
 05:07:11 10 A. That's my evidence.
 05:07:12 11 Q. Is there any other evidence?
 05:07:13 12 A. No. That would be -- that would -- I would
 05:07:17 13 say that that, to the best of my knowledge,
 05:07:19 14 would be the main evidence.
 05:07:23 15 Q. It's the main evidence. Is there any other
 05:07:26 16 evidence, sir?
 05:07:26 17 A. The evidence my weak, untrained legal mind
 05:07:30 18 can think of, that's -- yeah. Yeah.
 05:07:54 19 Q. Now, over in Paragraph 26 of the complaint,
 05:07:57 20 would you turn there, please. You allege in
 05:08:06 21 Paragraph 26 that "Defendants copied
 05:08:10 22 copyrighted subject matter of ConnectU's
 05:08:13 23 HarvardConnection Code and created a
 05:08:15 24 derivative work thereof."
 05:08:16 25 Do you see that?

05:08:17 1 A. Uh-huh.
 05:08:17 2 Q. Yes?
 05:08:18 3 A. Right.
 05:08:19 4 Q. Did Eduardo Saverin copy any copyrighted
 05:08:24 5 subject matter of ConnectU or
 05:08:27 6 HarvardConnection?
 05:08:28 7 MR. HORNICK: Objection. It calls
 05:08:29 8 for legal testimony, and it assumes that the
 05:08:32 9 witness has seen defendants' confidential
 05:08:35 10 documents.
 05:08:35 11 A. Yeah.
 05:08:36 12 MR. HAWK: Doesn't assume anything.
 05:08:37 13 I want to know if this individual who's been
 05:08:40 14 designated as the person most knowledgeable
 05:08:43 15 on a number of topics has any evidence that
 05:08:45 16 he can point to that Defendant Saverin
 05:08:50 17 copied any copyrighted subject matter of
 05:08:52 18 ConnectU or HarvardConnection.
 05:08:56 19 MR. HORNICK: Objection, the same
 05:08:59 20 as before.
 05:08:59 21 A. Give me a minute. Let me just read this.
 05:09:38 22 (Witness reviews document.)
 05:09:38 23 A. Well, I mean, my evidence is I believe that
 05:09:42 24 Thefacebook is derivative of work of
 05:09:43 25 HarvardConnection. Do I have evidence of

05:10:47 1 listen to it again, and even if you think
 05:10:49 2 you've answered it, I want you to go ahead
 05:10:52 3 and give me an answer --
 05:10:52 4 A. Okay. I --
 05:10:53 5 Q. -- because I'm not clear. If you don't
 05:10:54 6 know, you can tell me you don't know.
 05:10:55 7 A. I cannot answer that question.
 05:10:56 8 Q. All right. Let me --
 05:10:57 9 A. I can't because I do not know.
 05:10:59 10 Q. Let me put it out on the table, and if your
 05:11:03 11 response is "I cannot answer that question,"
 05:11:04 12 give it to me after I've answered (sic) --
 05:11:04 13 A. Okay.
 05:11:06 14 Q. -- the question, okay?
 05:11:09 15 As you sit here, isn't it correct that
 05:11:12 16 you are aware of no evidence that Defendant
 05:11:13 17 Saverin copied copyrighted subject matter of
 05:11:16 18 ConnectU's HarvardConnection code?
 05:11:20 19 A. I cannot say whether -- there could be
 05:11:36 20 evidence. I have -- I'm unable to see all
 05:11:39 21 that's out there, so --
 05:11:40 22 Q. You're not aware of any evidence; isn't that
 05:11:42 23 right?
 05:11:42 24 MR. HORNICK: Objection, puts words
 05:11:44 25 in the witness's mouth. You can say you

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05:09:45 1 him going into the code and physically
 05:09:49 2 duplicating it? No, I do not.
 05:09:51 3 Q. All right. So it's fair to say, sir, that
 05:09:53 4 you are aware of no evidence, as you sit
 05:09:56 5 here, that Defendant Saverin copied
 05:09:58 6 copyrighted subject matter of ConnectU or
 05:10:02 7 HarvardConnection, correct?
 05:10:04 8 A. With respect to code and documents that I
 05:10:07 9 have not seen, no, I would say that I don't
 05:10:11 10 have -- I do not know whether or not -- I
 05:10:16 11 cannot definitively say whether or not he
 05:10:18 12 copied the code.
 05:10:19 13 Q. Okay. As you sit here, you are aware of no
 05:10:22 14 evidence that Defendant Saverin copied
 05:10:25 15 copyrighted subject matter of ConnectU's
 05:10:28 16 HarvardConnection code, correct?
 05:10:29 17 MR. HORNICK: Objection,
 05:10:30 18 argumentative, asked and answered, assumes
 05:10:32 19 facts not in evidence, assumes the witness
 05:10:34 20 has seen defendants' confidential
 05:10:36 21 information, calls for legal conclusions.
 05:10:41 22 Q. Correct, sir?
 05:10:42 23 A. I think I've answered -- I think I've
 05:10:45 24 answered the question.
 05:10:45 25 Q. You haven't answered the question. Please

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05:11:50 1 can't answer the question.
 05:11:51 2 MR. HAWK: Hey, don't coach the
 05:11:52 3 witness, okay?
 05:11:53 4 MR. HORNICK: He can say --
 05:11:54 5 MR. HAWK: This is cross-
 05:11:54 6 examination.
 05:11:54 7 MR. HORNICK: You told him to say
 05:11:54 8 that.
 05:11:55 9 MR. HAWK: Don't coach the witness.
 05:11:56 10 MR. HORNICK: You told him he could
 05:11:57 11 say that.
 05:11:57 12 MR. HAWK: Don't coach the witness.
 05:11:58 13 BY MR. HAWK:
 05:11:58 14 Q. All right. I'll ask the question again, and
 05:11:58 15 if you want to parrot the answer that your
 05:12:03 16 lawyer just put on the table, feel free.
 05:12:03 17 A. Well, that was actually my answer --
 05:12:03 18 Q. Okay. Well --
 05:12:03 19 A. -- before.
 05:12:08 20 Q. -- let's get a question and answer --
 05:12:05 21 A. He's parroting it from me.
 05:12:08 22 Q. Let's get a question and answer on the
 05:12:09 23 table. Isn't it correct, Mr. Winklevoss,
 05:12:13 24 that as you sit here, you are aware of no
 05:12:16 25 evidence that Defendant Saverin copied

05:12:19 1 copyrighted subject matter of ConnectU's
 05:12:22 2 HarvardConnection code, correct?
 05:12:23 3 A. Okay. I -- you know, as I said, there could
 05:12:31 4 be --
 05:12:36 5 Q. I thought you were going to tell me that you
 05:12:38 6 couldn't answer that question.
 05:12:41 7 A. Well, that's what I did tell you. You seem
 05:12:45 8 to not be satisfied with that, so...
 05:12:47 9 MR. HORNICK: I think the witness
 05:12:48 10 has given you his answer.
 05:12:49 11 MR. HAWK: Well, I don't think so.
 05:12:51 12 I really disagree, and I want to put it out
 05:12:54 13 one more time. I want to see -- I want the
 05:12:57 14 witness to deal with it, and I want him to
 05:12:58 15 answer the question. I think I'm entitled
 05:13:00 16 to an answer. I think the Court will think
 05:13:03 17 I'm entitled to an answer.
 05:13:05 18 MR. HORNICK: He's told you three
 05:13:05 19 times he's given you his answer. You keep
 05:13:06 20 asking the same question, and then --
 05:13:06 21 MR. HAWK: Okay.
 05:13:07 22 MR. HORNICK: -- when you don't
 05:13:08 23 like his answer, he says, "I gave you my
 05:13:10 24 answer."
 05:13:11 25 MR. HAWK: Well, that's really not

05:14:01 1 Saverin has held himself out to be a founder
 05:14:04 2 of Thefacebook, correct?
 05:14:07 3 MR. HORNICK: Mischaracterizes.
 05:14:11 4 A. To the extent, as a creator of that -- as a
 05:14:14 5 creator of that entity, yes, I would say
 05:14:16 6 there's evidence to say that that entity
 05:14:19 7 copied -- I have evidence to believe that
 05:14:21 8 they and reason to believe that that entity,
 05:14:24 9 of which he is a creator of, of which we
 05:14:26 10 have yet to really define what his role is,
 05:14:30 11 he copied -- there is evidence to believe
 05:14:33 12 that he copied the HarvardConnection code in
 05:14:38 13 creating that work.
 05:14:38 14 Q. You're really not answering my question.
 05:14:38 15 A. I think I am.
 05:14:41 16 Q. You're really --
 05:14:41 17 MR. HORNICK: -- and if you don't
 05:14:42 18 stop, we're going to end the deposition.
 05:14:43 19 MR. HAWK: Hey, you do what you
 05:14:44 20 have to do.
 05:14:46 21 A. Okay. At all times Mr. --
 05:14:46 22 MR. HORNICK: This witness is not
 05:14:49 23 answering the question. You're at the
 05:14:51 24 oppressive level.
 05:14:52 25 A. I'll try and be -- I mean, I'm trying to

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05:13:12 1 what it's been about. I disagree, okay?
 05:13:15 2 And because --
 05:13:15 3 MR. HORNICK: Ask him again.
 05:13:16 4 MR. HAWK: -- because I'm entitled
 05:13:16 5 to cross-examine the witness --
 05:13:16 6 A. Okay.
 05:13:17 7 MR. HAWK: -- I'm going to go ahead
 05:13:18 8 and put it another --
 05:13:19 9 A. It's --
 05:13:19 10 Q. Mr. Winklevoss, I'm going to put it out on
 05:13:21 11 the table --
 05:13:21 12 A. It's very simple. Mr. Saverin, or Saverin,
 05:13:25 13 has dubbed himself a creator of Thefacebook,
 05:13:28 14 okay, a creator of that entity. It is our
 05:13:31 15 belief and evidence -- we have evidence -- I
 05:13:35 16 have evidence to believe that that is a
 05:13:36 17 derivative work based on HarvardConnection
 05:13:38 18 code, okay? Him calling himself a
 05:13:42 19 co-founder, co-creator would give me
 05:13:45 20 evidence to believe that he has copied the
 05:13:47 21 code. That would be evidence, yes.
 05:13:50 22 Q. Okay. So the evidence that you are aware of
 05:13:53 23 that Defendant Saverin copied copyrighted
 05:13:56 24 subject matter of ConnectU's
 05:13:59 25 HarvardConnection code is the fact that Mr.

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05:14:53 1 make it as simple as possible, okay?
 05:14:53 2 Q. All right.
 05:14:55 3 A. We believe we've established and we agree
 05:14:56 4 upon the fact that he is a co-creator,
 05:14:59 5 co-founder of Thefacebook entity, okay?
 05:15:02 6 Now, we have not established his respective
 05:15:04 7 role. You haven't told me his respective
 05:15:06 8 role. In fact, I have told you we don't
 05:15:08 9 know what his respective role is other than
 05:15:10 10 the fact that he's a creator, okay? He's a
 05:15:15 11 creator in a project which we allege, and we
 05:15:17 12 believe -- I believe I have evidence, that
 05:15:18 13 took copyrighted derivative code from
 05:15:21 14 HarvardConnection.
 05:15:21 15 Based on that line of reasoning, I
 05:15:23 16 believe that we have evidence that would
 05:15:26 17 indicate that Mr. Saverin, either together
 05:15:29 18 or by proxy via Mark Zuckerberg, copied our
 05:15:34 19 HarvardConnection code, yes.
 05:15:34 20 Q. What did Mr. Saverin create as far as
 05:15:37 21 Thefacebook goes?
 05:15:40 22 A. Again, he was involved in the initial talks
 05:15:45 23 before the coding. I would assume that he
 05:15:48 24 was involved with --
 05:15:49 25 Q. I don't want you to assume. Here's my

<p>05:15:53 1 question.</p> <p>05:15:53 2 A. I don't know. I said -- and I told you --</p> <p>05:15:54 3 Q. If you don't know, that's the answer --</p> <p>05:15:58 4 A. But I told you that before.</p> <p>05:16:01 5 Q. -- okay? But what did Mr. Saverin create as</p> <p>05:16:03 6 far as Thefacebook goes?</p> <p>05:16:05 7 A. I don't -- other than the fact that he's a</p> <p>05:16:07 8 creator, I don't know.</p> <p>05:16:08 9 Q. Okay.</p> <p>05:16:08 10 A. However, you know, you can't draw that he</p> <p>05:16:11 11 did -- what he didn't create from that. So</p> <p>05:16:14 12 you know that he created something, and we</p> <p>05:16:16 13 have evidence through, as I mentioned</p> <p>05:16:18 14 before, either himself or through proxy</p> <p>05:16:21 15 being a creator or part of a creative entity</p> <p>05:16:23 16 that works off of a derivative work, you're</p> <p>05:16:27 17 inextricably linked to the copying of that</p> <p>05:16:30 18 copyrighted code. That's my belief and</p> <p>05:16:32 19 evidence.</p> <p>05:16:32 20 Q. Okay. See, the problem, though, and the</p> <p>05:16:36 21 reason that I'm staying with this line of</p> <p>05:16:38 22 questioning is that I ask a very simple</p> <p>05:16:40 23 question, and then you give me an answer</p> <p>05:16:43 24 that most times doesn't answer the question,</p> <p>05:16:45 25 but it certainly goes and gives me a lot of</p>	<p>05:17:46 1 copied copyrighted subject matter of</p> <p>05:17:49 2 ConnectU's HarvardConnection code?</p> <p>05:17:51 3 A. Again, we know that -- I know that Mr.</p> <p>05:17:55 4 Hughes has repeatedly indicated the</p> <p>05:18:01 5 Thefacebook is a dorm-room late-night</p> <p>05:18:04 6 situation of talks and discussions. So I</p> <p>05:18:07 7 know from that that he was involved in the</p> <p>05:18:09 8 development of the site, so he says, based</p> <p>05:18:12 9 on his account.</p> <p>05:18:13 10 Q. Any other evidence that you're aware of</p> <p>05:18:16 11 other than what you've just testified to</p> <p>05:18:19 12 that Defendant Hughes copied copyrighted</p> <p>05:18:22 13 subject matter of ConnectU's</p> <p>05:18:23 14 HarvardConnection code?</p> <p>05:18:24 15 A. Other than the fact that he was involved in</p> <p>05:18:25 16 the development of the website by his</p> <p>05:18:28 17 account, no.</p> <p>05:18:31 18 Q. Okay. All right. Mr. McCollum, what</p> <p>05:18:34 19 evidence are you aware of that Mr. McCollum</p> <p>05:18:37 20 copied copyrighted subject matter of</p> <p>05:18:40 21 ConnectU's HarvardConnection code?</p> <p>05:18:43 22 A. I would give the same answer for that.</p> <p>05:18:47 23 Q. And that same answer is?</p> <p>05:18:48 24 A. Same answer is that he was -- we have reason</p> <p>05:18:53 25 to believe that he was involved with the</p>
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05:16:48 1 other information that I haven't asked for.

05:16:50 2 And I'm entitled to move to strike such a

05:16:53 3 response and then to ask the question over

05:16:57 4 and ask you politely, which I'm going to do,

05:16:59 5 just to answer my question.

05:17:00 6 MR. HORNICK: And I'm entitled to

05:17:01 7 tell you that you are badgering the witness,

05:17:03 8 and you're going to stop it, or we're going

05:17:05 9 to leave.

05:17:05 10 MR. HAWK: Okay. You do what you

05:17:08 11 have to do.

05:17:09 12 Q. So let me -- Mr. Winklevoss, let me just ask

05:17:12 13 the question one more time, and, you know,

05:17:13 14 if you can give me an answer, that will be

05:17:15 15 great.

05:17:16 16 My question to you is, what did

05:17:18 17 Defendant Saverin create as far as

05:17:19 18 Thefacebook is concerned, if you know?

05:17:23 19 A. I do not know specifically what he

05:17:26 20 created --

05:17:30 21 Q. Fair enough.

05:17:28 22 A. -- in terms of development.

05:17:30 23 Q. Fair enough. Thank you.

05:17:41 24 What about Mr. Hughes; what evidence

05:17:43 25 are you aware of that Defendant Hughes

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05:18:54 1 development of the site, and to the extent

05:18:56 2 the development of the site is based on

05:18:59 3 copyrighted code of HarvardConnection, he

05:19:02 4 copied HarvardConnection code.

05:19:03 5 Q. And you don't know specifically what Mr.

05:19:05 6 McCollum's contributions to Thefacebook

05:19:08 7 were, correct?

05:19:09 8 A. I believe that part of this contribution

05:19:12 9 might have been in the nature of graphics.

05:19:15 10 I believe that he is a graphic design

05:19:18 11 individual who took an internship at EA

05:19:22 12 Systems, and that is certainly one of the

05:19:25 13 contributions I believe he made.

05:19:26 14 Q. Is that the only contribution that he made

05:19:27 15 to Thefacebook that you're aware of?

05:19:29 16 A. I can't say -- I can't say that that's the

05:19:30 17 only contribution. That's only --

05:19:32 18 Q. Well, tell me which other one you're aware

05:19:34 19 of.

05:19:34 20 A. I only said that's -- I said that's the

05:19:35 21 only -- the graphics is the only one

05:19:37 22 contribution that I can say for sure that he

05:19:40 23 made. I can't say that that's his only

05:19:41 24 contribution.

05:19:43 25 Q. Well, okay. Are you aware of any other

05:19:45 1 contributions that Mr. McCollum made to
 05:19:47 2 Thefacebook other than graphics?
 05:19:48 3 A. I am unaware.
 05:19:50 4 Q. Fine. Are you aware of specifically what
 05:19:53 5 Mr. Hughes contributed to Thefacebook?
 05:19:56 6 MR. HORNICK: Objection, asked and
 05:19:58 7 answered.
 05:19:58 8 A. Yeah, other than, you know -- rather, let me
 05:20:02 9 go back and reconfirm myself in the last
 05:20:03 10 answer. I said graphics, but I also said --
 05:20:06 11 I also included prior to that that he was
 05:20:08 12 involved in the creation and development, so
 05:20:11 13 graphics, and it could be more than one
 05:20:14 14 thing, could be just graphics. I don't know
 05:20:15 15 the answer to that.
 05:20:17 16 Q. Right. All that you're aware of is
 05:20:18 17 graphics, correct?
 05:20:19 18 A. Right.
 05:20:20 19 Q. Okay.
 05:20:20 20 A. And with Mr. Hughes I'm aware that he's
 05:20:22 21 involved with the creation of the site. I'm
 05:20:24 22 not invol -- other than the fact that
 05:20:26 23 post-launch he did a lot of media relations,
 05:20:28 24 I'm unaware of exactly what his role was in
 05:20:31 25 the creation.

05:21:25 1 Q. Okay. What did he create prior to the
 05:21:27 2 launch? What did Mr. Hughes create prior to
 05:21:29 3 the launch?
 05:21:30 4 A. I already answered that. I said --
 05:21:32 5 Q. You don't know?
 05:21:33 6 A. I said I do not know. All I know is that he
 05:21:36 7 was part of the creation.
 05:21:38 8 Q. But you don't know any specific contribution
 05:21:40 9 to the creation that Mr. Hughes made,
 05:21:41 10 correct?
 05:21:41 11 A. No, I don't.
 05:21:43 12 Q. Okay. Fine. Mr. Moskowitz, what were his
 05:21:48 13 contributions to Thefacebook at any time
 05:21:50 14 that you're aware of?
 05:21:51 15 A. I know that he's a coder. I know that he
 05:21:55 16 roommates with Mr. Zuckerberg. I know that
 05:21:57 17 Mr. Zuckerberg has labeled the site as much
 05:22:00 18 his project as Mr. Zuckerberg's project. He
 05:22:03 19 has put in a ton of time as far as coding's
 05:22:08 20 related. That's what I know.
 05:22:09 21 Q. Okay. What specific parts of the site has
 05:22:11 22 Mr. Moskowitz been involved with coding?
 05:22:13 23 A. To -- from what I can recollect from media
 05:22:18 24 accounts, that he's been involved in the
 05:22:21 25 expansion of the site, taking it to other

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05:20:31 1 Q. Okay. So other than Mr. Hughes'
 05:20:35 2 contributions to media relations, you're
 05:20:38 3 unaware of any other contribution to
 05:20:40 4 Thefacebook, correct?
 05:20:41 5 A. Post-Facebook launch, yes.
 05:20:43 6 Q. Let's talk --
 05:20:46 7 A. No, no, no, in 2 --
 05:20:46 8 Q. No, no, no.
 05:20:48 9 A. In 2004 when Thefacebook launched, post that
 05:20:50 10 I can say for a fact that he talked to --
 05:20:53 11 that he was the press media person.
 05:20:56 12 Q. Sir, what I'm asking -- listen to the
 05:20:58 13 question, please -- other than media
 05:20:59 14 relations, you are unaware of any other
 05:21:02 15 contribution by Mr. Hughes to Thefacebook at
 05:21:06 16 any time, correct?
 05:21:07 17 MR. HORNICK: Objection,
 05:21:07 18 mischaracterizes, and it's asked and
 05:21:09 19 answered.
 05:21:10 20 A. Again, prior to launch I'm aware that he was
 05:21:14 21 involved in the creation. To what extent I
 05:21:17 22 do not know. Post-launch I know that one of
 05:21:18 23 his roles, and it might be his only role or
 05:21:22 24 it could be one of many roles, was media
 05:21:24 25 relations.

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05:22:25 1 schools, and that's all I can say for
 05:22:27 2 certain that I know which role he played.
 05:22:29 3 Q. Okay. So the only contribution in the
 05:22:31 4 creation of Thefacebook by Mr. Moskowitz as
 05:22:34 5 far as coding goes, that you're aware of, is
 05:22:37 6 involvement in the expansion of that website
 05:22:40 7 to other universities, correct?
 05:22:43 8 A. Yes. I would say the role -- yeah, the
 05:22:48 9 expansion in that --
 05:22:50 10 Q. Okay. Fine.
 05:22:50 11 A. -- with that respect, yeah.
 05:22:52 12 Q. Okay. And as you sit here, what evidence
 05:22:54 13 are you aware of that Defendant Moskowitz
 05:22:58 14 copied copyrighted subject matter of
 05:22:59 15 ConnectU's HarvardConnection code?
 05:23:00 16 A. Okay. So the -- to the extent that he was
 05:23:05 17 involved in the creation of Thefacebook
 05:23:10 18 idea?
 05:23:10 19 MR. HORNICK: This witness can't
 05:23:11 20 answer that question other than what he has
 05:23:12 21 so far. We told you that in our objections.
 05:23:16 22 A. It's my belief and evidence that he's a
 05:23:18 23 roommate, he's a coder, he's been billed as
 05:23:21 24 a very big part of the project and that he
 05:23:25 25 was involved in the creation of the website.

05:23:27 1 And as I said for the other defendants,
 05:23:30 2 based on their involvement in the creation
 05:23:31 3 and the fact that I believe that the
 05:23:33 4 creation is derivative work, that I believe
 05:23:39 5 he's used copyrighted code.
 05:23:41 6 Q. I think I'll go with your counsel's
 05:23:44 7 stipulation that you can't answer the
 05:23:45 8 question so we'll move on.
 05:23:47 9 MR. HORNICK: The witness gave you
 05:23:48 10 the best answer to the best of his ability.
 05:24:03 11 Q. Now, Mr. Saverin was never a partner of the
 05:24:05 12 HarvardConnection, correct?
 05:24:06 13 A. No, he would not have been involved. No.
 05:24:10 14 Q. Right. And neither you nor anyone else at
 05:24:14 15 HarvardConnection ever made the
 05:24:16 16 HarvardConnection source code available to
 05:24:17 17 Mr. Saverin, correct?
 05:24:22 18 A. We directly did not make it available --
 05:24:22 19 Q. Right.
 05:24:26 20 A. -- to him, yeah.
 05:24:26 21 Q. And no one, to your knowledge, at ConnectU
 05:24:27 22 ever disclosed any HarvardConnection trade
 05:24:29 23 secrets to Mr. Saverin, correct?
 05:24:31 24 A. No, not directly to Mr. Saverin.
 05:24:48 25 Q. All right. And just to clean up a few

05:25:45 1 word "partner" to Mr. Zuckerberg?
 05:25:47 2 A. No, and I don't believe I had to. I --
 05:25:50 3 Q. But I didn't ask you about what you had to
 05:25:52 4 do.
 05:25:52 5 MR. HORNICK: He can give a
 05:25:53 6 complete answer.
 05:25:53 7 A. I used the word "part," which is part --
 05:25:57 8 which assumes a partner is a part of a slice
 05:25:58 9 of the pie, you know, if you want to go down
 05:26:02 10 to the semantics level. But, no, we did not
 05:26:05 11 use the word "partner." We're college
 05:26:07 12 students. You know, we are on a project,
 05:26:11 13 and it's a team. That's what we called it.
 05:26:12 14 Q. Okay. So just to be clear, you never told
 05:26:17 15 Mr. Zuckerberg that he was going to be a
 05:26:19 16 partner --
 05:26:19 17 A. I never --
 05:26:20 18 Q. -- quote, "partner" in the venture, correct?
 05:26:22 19 A. Quote, "partner" -- quote, "partner," no, I
 05:26:25 20 did not use the word, quote, "partner."
 05:26:27 21 Q. Okay. Fine. And just to be clear again,
 05:26:29 22 there was never any written -- oral or
 05:26:34 23 written agreement with Mr. Zuckerberg that
 05:26:35 24 he would have some specific percentage
 05:26:38 25 ownership in HarvardConnection, correct?

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05:24:49 1 things from this morning, talk about this
 05:24:51 2 partnership, this HarvardConnection
 05:24:53 3 partnership.
 05:24:54 4 A. Uh-huh.
 05:24:55 5 Q. There was never any written agreement
 05:24:57 6 between Mark Zuckerberg and
 05:24:59 7 HarvardConnection that Mr. Zuckerberg would
 05:25:01 8 be a partner of HarvardConnection, correct?
 05:25:03 9 A. There was no written agreement.
 05:25:08 10 Q. All right. And there was never any explicit
 05:25:09 11 agreement, oral or written, by Mr.
 05:25:11 12 Zuckerberg that he was going to be a partner
 05:25:15 13 of HarvardConnection, correct?
 05:25:17 14 A. Not correct to the extent that there was --
 05:25:21 15 as I mentioned before, there was explicit
 05:25:24 16 talk of contributions to the
 05:25:26 17 HarvardConnection team.
 05:25:28 18 Q. Well, let's talk about the word "partner."
 05:25:30 19 A. Okay.
 05:25:30 20 Q. Did Mr. Zuckerberg ever say to you, "I
 05:25:33 21 understand I'm a partner in this
 05:25:35 22 HarvardConnection venture"? Did he ever say
 05:25:38 23 the word "partner"?
 05:25:39 24 A. No, he did not use the word "partner." No.
 05:25:42 25 Q. And did you, you personally, ever use the

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05:26:39 1 A. Specific ownership, yes. Specific as in
 05:26:44 2 specific equity stakes, yes, there was --
 05:26:48 3 that conversation never happened.
 05:26:48 4 Q. Listen to my question again.
 05:26:50 5 MR. HORNICK: Listen to his answer.
 05:26:52 6 Did you hear it?
 05:26:53 7 MR. CHATTERJEE: Robert, let's have
 05:26:55 8 the court reporter read that answer back.
 05:26:56 9 MR. HAWK: Okay. Let's have the
 05:26:58 10 answer back, question and answer, if you
 05:27:00 11 wouldn't mind.
 05:27:01 12 (Record read.)
 05:27:27 13 A. So, well, I was --
 05:27:28 14 MR. HORNICK: Wait, wait. There's
 05:27:29 15 no question pending.
 05:27:30 16 Q. Right. So let me -- I'm a little unclear, I
 05:27:31 17 will say, after the last question and
 05:27:33 18 answer, so let me try if I can reask it --
 05:27:33 19 A. It was supposed to be --
 05:27:36 20 Q. -- and clear it up.
 05:27:37 21 A. Yeah, I mean, if you want to reask that same
 05:27:41 22 question --
 05:27:41 23 Q. Yeah --
 05:27:41 24 A. -- sure.
 05:27:41 25 Q. -- let me reask the question, okay?

05:27:44 1 Isn't it correct that there was never
 05:27:45 2 any written or oral agreement with Mr.
 05:27:47 3 Zuckerberg that he would have a specific
 05:27:49 4 percentage ownership in HarvardConnection?
 05:27:53 5 A. Specific percentage ownership, as I said
 05:27:59 6 before, we did not talk about because it was
 05:28:01 7 premature --
 05:28:03 8 Q. Okay. Fine.
 05:28:04 9 A. -- okay?
 05:28:04 10 Q. All right. All right. You never talked
 05:28:06 11 about it with Mr. Zuckerberg, correct?
 05:28:07 12 A. Specific percentage ownership. Outside of
 05:28:10 13 what I said earlier, which was that it was
 05:28:12 14 an equal -- an equal partnership based on
 05:28:18 15 contribution, no.
 05:28:19 16 Q. See, that's the problem I'm having here.
 05:28:20 17 A. Why is that so hard?
 05:28:22 18 MR. HORNICK: Robert, listen. You
 05:28:23 19 don't like his answers, and you keep getting
 05:28:24 20 him to try to change them. He has given you
 05:28:26 21 his answer. He gave it this morning. He's
 05:28:28 22 been consistent all day. I think you should
 05:28:30 23 stop badgering the witness.
 05:28:31 24 MR. CHATTERJEE: Mr. Hornick, what
 05:28:33 25 federal rule of evidence are you citing to

05:29:05 1 MR. HORNICK: No, I disagree.
 05:29:07 2 MR. HAWK: Hold it. Hold it.
 05:29:07 3 Don't interrupt me, okay?
 05:29:08 4 MR. HORNICK: No, I will interrupt
 05:29:10 5 you if you misstate to the witness. You
 05:29:12 6 don't have the right to advise him of how he
 05:29:14 7 has to answer a question.
 05:29:15 8 MR. HAWK: I have a right to
 05:29:16 9 conduct a deposition. I will try and do it.
 05:29:19 10 MR. HORNICK: Go ahead. Do it
 05:29:21 11 properly.
 05:29:21 12 BY MR. HAWK:
 05:29:22 13 Q. Here's my -- here's my question: There was
 05:29:24 14 never any written or oral agreement with Mr.
 05:29:27 15 Zuckerberg that he would have a specific
 05:29:30 16 percentage ownership in HarvardConnection;
 05:29:37 17 isn't that correct?
 05:29:37 18 A. Can you define "specific percentage
 05:29:39 19 ownership"?
 05:29:40 20 Q. Is there something that's unclear --
 05:29:42 21 A. Yeah, there is.
 05:29:42 22 Q. -- about specific percentage ownership? All
 05:29:45 23 right. I'll give you an example. You could
 05:29:47 24 have said, "Mark, you're going to have a 25
 05:29:49 25 percent ownership in this venture," or you

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5:28:35 1 at this point? Because badgering with
 05:28:36 2 counsel has nothing to do with the
 05:28:38 3 deposition.
 05:28:38 4 MR. HORNICK: He is badgering the
 05:28:39 5 witness. He keeps asking the same question
 05:28:43 6 that's been asked all day. He keeps
 05:28:45 7 answering it.
 05:28:45 8 MR. HAWK: We'll put this record
 05:28:47 9 before the Judge, okay?
 05:28:47 10 MR. HORNICK: You're getting your
 05:28:47 11 answers.
 05:28:46 12 MR. HAWK: We'll put the record --
 05:28:46 13 we'll put the record before the Judge, and
 05:28:48 14 we'll --
 05:28:48 15 MR. HORNICK: Go ahead. You're
 05:28:49 16 getting your answers.
 05:28:50 17 MR. HAWK: All right. Let's turn
 05:28:51 18 it down a notch. We're almost done today.
 05:28:54 19 Let me try and put another question. I was
 05:28:55 20 just trying to explain to the witness why I
 05:28:58 21 keep going back to the same thing.
 05:28:58 22 BY MR. HAWK:
 05:29:00 23 Q. And the reason that I keep going back is
 05:29:02 24 because you're giving an argumentative
 5:29:05 25 answer.

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05:29:53 1 could have said, "Mark, you're going to have
 05:29:55 2 a 10 percent ownership," okay? That's what
 05:29:59 3 I have in mind when I say the words
 05:30:00 4 "specific percentage ownership." Now that
 05:30:02 5 I've given you that example, do you
 05:30:04 6 understand what I --
 05:30:04 7 A. Right.
 05:30:06 8 Q. Okay. All right. Now let me reask the
 05:30:07 9 question. Isn't it correct, sir, that there
 05:30:09 10 was never any written or oral agreement with
 05:30:11 11 Mr. Zuckerberg that he would have a specific
 05:30:13 12 percentage ownership in HarvardConnection?
 05:30:15 13 A. Specific percentage ownership, well, you
 05:30:22 14 know, with respect to an equal ownership,
 05:30:25 15 yes, there was that oral agreement. There
 05:30:27 16 was that oral discussion. There was no
 05:30:30 17 written; however, there was an oral.
 05:30:33 18 If you want to go by a specific
 05:30:35 19 percentage and we use my barometer, which
 05:30:38 20 I've said multiple times is that it was an
 05:30:41 21 equal team, an equal partnership based on
 05:30:43 22 the contributions at that time and that it
 05:30:46 23 was premature to go any further than that,
 05:30:49 24 there was an oral agreement to that extent,
 05:30:51 25 yes.

05:30:52 1 Q. There was an oral agreement that there would
05:30:53 2 be equal or, in other words, 25 percent
05:30:56 3 ownership by each of the partners; is that
05:30:59 4 your testimony, sir?

05:31:00 5 A. My answer is that it was -- I mean, as I
05:31:03 6 said before, equal, equal to the
05:31:06 7 contribution that each person brought to the
05:31:08 8 table.

05:31:08 9 Q. Oh, okay. Well, I thought you meant equal
05:31:11 10 that everybody would have an equal share,
05:31:13 11 but let's --

05:31:16 12 A. Well, no.

05:31:16 13 Q. -- explore that.

05:31:17 14 So you had a conversation with Mr.
05:31:19 15 Zuckerberg in which you told him that you
05:31:22 16 wanted him to be a partner and that his
05:31:25 17 partnership interest in this
05:31:26 18 HarvardConnection partnership would be equal
05:31:28 19 to his contribution; is that correct?

05:31:32 20 A. Sure. He had -- I mean, you are -- Mr.
05:31:37 21 Zuckerberg in his e-mail discourse has
05:31:43 22 indicated that he expected to be part of the
05:31:49 23 development of the project and control.
05:31:51 24 Now, we all brought different contributions
05:31:52 25 to the table. They were all relatively

05:32:44 1 question.

05:32:44 2 MR. HAWK: Well, thank you for your
05:32:45 3 advice. Let me ask the question again
05:32:47 4 because I don't think I got an answer to it,
05:32:49 5 in all fairness.

05:32:50 6 BY MR. HAWK:

05:32:50 7 Q. Did you ever have a conversation with Mr.
05:32:53 8 Zuckerberg in which you communicated to him
05:32:56 9 that he would receive an equal partnership
05:33:05 10 share in HarvardConnection and that his
05:33:06 11 share would be equal to his contribution?

05:33:10 12 A. I think it was clear in our second meeting
05:33:13 13 that he would -- as I mentioned before
05:33:16 14 earlier, I mean, we've gone over this
05:33:17 15 question multiple times, and I'm starting to
05:33:20 16 believe that it's not because my answer is
05:33:22 17 not correct, but that the answer is -- you
05:33:27 18 guys don't want to seem to take my answer.
05:33:29 19 And the answer is simple. Mr. Zuckerberg
05:33:35 20 was invited to become part of a team. He
05:33:38 21 became -- he agreed to become part of that
05:33:40 22 team.

05:33:41 23 It was an equal opportunity
05:33:43 24 partnership. Each person had respective
05:33:46 25 contributions, and down the road as those

05:31:57 1 critical in terms of the development of the
05:31:58 2 site. And we all treated each other as
05:32:01 3 equals, acted as equals.

05:32:03 4 Again, we're college students, and
05:32:05 5 this is a project that's going to launch.
05:32:08 6 It was premature to talk about specific
05:32:11 7 equity stake at that point with respect to
05:32:13 8 percentages.

05:32:14 9 Q. Sir, my question was about a conversation
05:32:17 10 that you had or didn't have with Mr.
05:32:19 11 Zuckerberg. The answer you just gave had
05:32:22 12 nothing to do with any conversation that you
05:32:22 13 had --

05:32:26 14 MR. HORNICK: Robert, you cut off
05:32:27 15 his answer.

05:32:24 16 Q. -- or didn't have with Mr. Zuckerberg.

05:32:25 17 MR. HORNICK: You cut off his
05:32:27 18 answer, and you sit there and you shake his
05:32:30 19 head -- you shake your head while he's
05:32:31 20 talking, and you laugh and you smile while
05:32:34 21 he's talking, and that is improper. You
05:32:37 22 should sit there quietly, without shaking
05:32:38 23 your head, without smiling and without
05:32:40 24 laughing while the witness finishes his
05:32:43 25 answer, and then you can ask another

05:33:49 1 contributions increased or decreased we
05:33:53 2 would certainly have attached what you call,
05:33:55 3 you know, more of a specific allocation,
05:33:58 4 okay? At that time it was an equal
05:34:00 5 allocation, okay? You're at the starting
05:34:02 6 gate of a race. You can't predict who's
05:34:04 7 going to be the winner, who's going to pull
05:34:06 8 the most.

05:34:09 9 So -- and I would go so far as to say
05:34:11 10 that actually his compensation was initially
05:34:14 11 perhaps larger than ours because we made it
05:34:17 12 very clear to him that we wanted him to be
05:34:21 13 the center point in the Crimson article at
05:34:24 14 the launch of the site and that he would be
05:34:26 15 sort of reinventing his character, which we
05:34:28 16 would not be a part of. So from some
05:34:31 17 accounts you could say that it was skewed in
05:34:34 18 his favor.

05:34:36 19 Q. Okay.

05:34:36 20 A. But --

05:34:38 21 Q. Are you finished?

05:34:39 22 A. -- to the extent, that, again, we're college
05:34:42 23 students and this is a team, a project, Mr.
05:34:45 24 Zuckerberg has reapportioned shares and
05:34:48 25 aspects of this company multiple times.

05:34:51 1 Q. All right. I -- you know, I've reached the
05:34:55 2 point where I'm not going to, at your
05:34:57 3 counsel's suggestion, ask you the question
05:34:58 4 again unless -- unless you tell me that you
05:35:04 5 actually intend to answer it the next time.
05:35:05 6 MR. HORNICK: Objection.
05:35:06 7 Q. The question --
05:35:07 8 MR. HAWK: Just let me finish this.
05:35:09 9 Q. The question that I ask had to do with
05:35:11 10 conversations that you either had or didn't
05:35:13 11 have with Mr. Zuckerberg. I think I've
05:35:16 12 asked that question at least three times
05:35:18 13 now, and I don't -- I don't believe, in all
05:35:21 14 fairness, that I've gotten an answer to the
05:35:22 15 question. If you want to take another shot
05:35:25 16 at answering the question, then I'll reask
05:35:27 17 it. If you believe or you're not going to
05:35:30 18 give me anything other than another answer
05:35:32 19 like the one that you just gave me, I'll
05:35:34 20 move on, and then I'll go to the Court and
05:35:37 21 I'll try and seek an order that you be
05:35:39 22 ordered to answer the questions that are
05:35:40 23 asked in the deposition.
05:35:42 24 So I'm going to put it out there one
05:35:44 25 more time.

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05:36:38 1 A. Well, I think your question should be did
05:36:45 2 he -- did we have a discussion for Mr.
05:36:49 3 Zuckerberg to get a share of the
05:36:51 4 partnership, okay?
05:36:52 5 Q. Well, I wanted to ask my question, Mr.
05:36:55 6 Winklevoss. I ask you the question.
05:36:55 7 A. No, you asked me --
05:36:57 8 Q. I don't want you --
05:36:57 9 A. -- did he say --
05:36:57 10 Q. -- to reformulate my question.
05:36:58 11 A. You know, equal partnership with respect to
05:37:02 12 a partnership based on equality, meaning
05:37:05 13 people's contributions would be weighed
05:37:07 14 accurately and you would divvy out equity
05:37:11 15 based on contribution in an equal manner,
05:37:14 16 yes, we had an equal partnership by that
05:37:16 17 definition, to answer your question.
05:37:17 18 Q. Okay. Now, my question was not about the
05:37:19 19 kind of partnership you had. My question
05:37:21 20 was about whether you ever had any
05:37:24 21 discussion along the lines of --
05:37:26 22 A. Yeah.
05:37:26 23 Q. -- you just testified -- let me finish.
05:37:28 24 Did you ever have that discussion with
05:37:30 25 Mr. Zuckerberg?

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05:37:31 1 A. Yes, as I said before, we -- in the second
05:37:34 2 meeting we discussed people's respective
05:37:37 3 roles. Everybody was on an equal playing
05:37:41 4 field. That's why I'm referring to it as an
05:37:43 5 equal partnership, if you will, okay, or
05:37:45 6 equal team, based on contributions. If
05:37:47 7 contributions six months down the road were
05:37:50 8 unequal, then the partnership, you know,
05:37:53 9 would certainly change in scope. But
05:37:55 10 everybody was equal in terms of what they
05:37:57 11 brought to the table, what they can
05:37:59 12 contribute. So to answer your question,
05:38:01 13 yes, we did have a discussion about equal
05:38:04 14 partnership.
05:38:05 15 Q. Okay. And you had that discussion with --
05:38:07 16 A. Not using the word "partner."
05:38:09 17 Q. Okay. But you had the discussion about
05:38:11 18 equal shares of HarvardConnection based on
05:38:15 19 contribution, you had that discussion with
05:38:16 20 Mr. Zuckerberg in your second meeting with
05:38:20 21 him, correct?
05:38:21 22 A. Yes. We --
05:38:23 23 Q. Okay.
05:38:23 24 A. -- went through the fact that he would reap
05:38:27 25 in an equal manner any and all benefits that

05:35:45 1 MR. HORNICK: And I'll say that I
05:35:46 2 believe the witness has answered the
05:35:48 3 questions to the best of his ability. You
05:35:50 4 just don't like his answers.
05:35:51 5 MR. HAWK: Okay. All right. I
05:35:53 6 understand your position. You can argue
05:35:54 7 that to the Court based on this record, all
05:35:56 8 right?
05:35:57 9 BY MR. HAWK:
05:35:58 10 Q. My question to you, sir, is did you ever
05:36:00 11 have any conversation with Mr. Zuckerberg in
05:36:02 12 which you said to him that he would be
05:36:04 13 getting an equal partnership share in the --
05:36:09 14 in the HarvardConnection team?
05:36:13 15 MR. HORNICK: Objection. You've
05:36:15 16 asked a question that he can answer because
05:36:18 17 he's already said that he didn't use the
05:36:19 18 word "partner." So your question's unfair.
05:36:21 19 Q. All right. Let me rephrase. Let me
05:36:22 20 rephrase. Let me don't use -- because in
05:36:23 21 all fairness, you have said that you didn't
05:36:25 22 say "partner." You didn't say "partner."
05:36:29 23 Did you ever tell or discuss with Mr.
05:36:32 24 Zuckerberg that he would be getting an equal
5:36:35 25 share of HarvardConnection?

05:38:30 1 came along with the site, okay?

05:38:31 2 Q. All right. What did your brother Tyler

05:38:34 3 Winklevoss -- what is his contribution to

05:38:39 4 HarvardConnection?

05:38:39 5 A. He was part of the promotional aspects and

05:38:44 6 the marketing aspects of which I was a part

05:38:46 7 of.

05:38:47 8 Q. What specifically did he do?

05:38:48 9 A. As I said earlier, we were going to set up

05:38:53 10 a -- well, that would have been more of a

05:38:56 11 post-launch role. We were going to do a

05:38:58 12 launch party and do some promotional stuff

05:39:01 13 around campus, but aside from that, in terms

05:39:04 14 of the creation, he was involved with the

05:39:05 15 strategy and overall concept and

05:39:07 16 development.

05:39:07 17 Q. How many hours did Tyler Winklevoss

05:39:09 18 contribute to HarvardConnection prior to,

05:39:14 19 let's say, February 4th, 2004?

05:39:16 20 A. Again, you know, you're asking sort of a

05:39:19 21 question for me to recall exactly how many

05:39:22 22 hours.

05:39:24 23 Q. Give me a range.

05:39:25 24 A. Well, I can't -- you know, hours. I would

05:39:33 25 answer your question to say that he put in

05:40:45 1 A. Oh, oh, oh, like --

05:40:46 2 Q. Ever, have you ever spoken to Mr. Saverin?

05:40:49 3 A. Yeah, I believe I first met him in New York

05:40:52 4 City in the summer of 2004, but that is, I

05:40:55 5 believe, the only time I've ever spoken to

05:40:57 6 him.

05:40:57 7 Q. What did you say to Mr. Saverin in the

05:40:59 8 summer of 2004 when you met him?

05:41:01 9 A. I actually didn't really say anything to Mr.

05:41:04 10 Saverin. He introduced himself to me, and I

05:41:08 11 said Hello.

05:41:09 12 Q. Okay. You didn't say anything to him. What

05:41:12 13 did he say to you?

05:41:12 14 A. He said, "Hey, I heard" -- he told me

05:41:18 15 that -- I guess he said he was sorry that

05:41:25 16 Mr. Zuckerberg had done what he did.

05:41:29 17 Q. What's your best recollection of the precise

05:41:31 18 words that Mr. Saverin said to you?

05:41:33 19 A. I believe he said that -- he apologized that

05:41:39 20 he -- you know, for what we alleged that

05:41:42 21 happened, and he said that Mark screwed him,

05:41:44 22 too.

05:41:47 23 Q. Did Mr. Saverin say anything that he had any

05:41:49 24 knowledge that the allegations that you were

05:41:52 25 making against Mr. Zuckerberg were correct?

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05:39:36 1 as many hours and as much work as myself and

05:39:39 2 Divya did. How many hours that would be

05:39:41 3 might be -- you know, every time we thought

05:39:47 4 about the site, it could be hundreds,

05:39:49 5 hundreds and hundreds of hours. You know,

05:39:52 6 the hours we sat with programmers or talked

05:39:54 7 with them and spent time communicating, it

05:39:56 8 would be in the hundreds of hours.

05:39:58 9 Q. You think you worked more than 100 hours on

05:40:02 10 HarvardConnection prior to February 4th,

05:40:05 11 2004; is that your testimony?

05:40:06 12 A. I would say that if you coupled in all the

05:40:09 13 sort of the discourse and the thinking and

05:40:12 14 the work involved with it, I would say it

05:40:16 15 could be upwards of 100 hours, perhaps.

05:40:19 16 Q. Between 100 and 200 hours?

05:40:22 17 A. No, I didn't say that. I said it could be

05:40:24 18 up to 100 hours.

05:40:27 19 Q. Okay. All right. You think it was no more

05:40:29 20 than 100 hours?

05:40:29 21 A. Probably not, probably not.

05:40:33 22 Q. Okay. Have you ever spoken to Mr. Saverin?

05:40:41 23 A. I think we already went over this. I have

05:40:43 24 not.

05:40:43 25 Q. Okay. You've never --

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05:41:55 1 MR. HORNICK: Objection. The

05:41:57 2 complaint hadn't been filed at that point,

05:41:59 3 so do you want to rephrase your question?

05:42:01 4 MR. HAWK: No, I don't want to

05:42:02 5 rephrase the question.

05:42:03 6 A. He apologized for our -- what we believed

05:42:07 7 was a wrongdoing, and this was -- that was

05:42:12 8 about all he said, I believe.

05:42:14 9 Q. Well, what wrongdoing did he apologize for?

05:42:16 10 A. Well, again, he said -- I think he said the

05:42:19 11 word basically "screwed." You know, I'll

05:42:25 12 use that operative word, saying, "Sorry that

05:42:27 13 he screwed you," or something to that extent

05:42:29 14 and then said that Mark had screwed him,

05:42:31 15 too.

05:42:31 16 Q. Did he say anything else more specific other

05:42:33 17 than screwed with regard to some wrongdoing?

05:42:36 18 A. No, I don't believe that he really -- I

05:42:39 19 mean, the complaint wasn't filed. We had

05:42:42 20 alleged something in the paper. I don't

05:42:44 21 think he specifically mentioned anything

05:42:47 22 specifically.

05:42:48 23 MR. HORNICK: I would just like to

05:42:49 24 say to the witness if there were other words

05:42:51 25 that you're concerned about using, you can

05:42:53 1 use any words. You can say the actual
 05:42:55 2 words. I don't know if there are or not --
 05:42:57 3 THE WITNESS: Okay.
 05:42:58 4 A. Again, like this was late at night. It was
 05:43:00 5 in a very noisy atmosphere, and that's all I
 05:43:05 6 could really make out from what he was
 05:43:06 7 saying.
 05:43:07 8 Q. All right. This was in a bar?
 05:43:08 9 A. Yeah.
 05:43:08 10 Q. Okay. And was there anybody else there with
 05:43:11 11 you at the time?
 05:43:12 12 A. When he introduced --
 05:43:14 13 Q. Who overheard Mr. Saverin?
 05:43:17 14 A. Nobody would have overheard the conversation
 05:43:19 15 between the two of us.
 05:43:21 16 Q. Okay. And any other contacts with Mr.
 05:43:23 17 Saverin?
 05:43:23 18 A. I think that he may have messaged me once on
 05:43:28 19 ConnectU or sent me some sort of message,
 05:43:31 20 and I might have, I believe -- I think I
 05:43:34 21 wrote back sort of saying, "I missed your
 05:43:36 22 message." And this would have been in the
 05:43:38 23 summer of 2004, I believe, but there was no
 05:43:41 24 real content in either of those exchanges or
 05:43:44 25 any follow-up. I think -- I mean, from --

05:45:01 1 had to take further steps.
 05:45:04 2 Q. Okay. Did you -- were you aware that people
 05:45:10 3 in business -- were you aware in November of
 05:45:13 4 2003 that people in business who have trade
 05:45:17 5 secrets and proprietary information
 05:45:19 6 frequently enter into written nondisclosure
 05:45:21 7 agreements? Were you aware of that?
 05:45:23 8 A. At that time I'm not sure I was aware of
 05:45:26 9 what a nondisclosure was. I was aware that
 05:45:29 10 private information should not be made
 05:45:31 11 public if you believe that it is protectable
 05:45:37 12 information.
 05:45:37 13 Q. And in November 2000 -- well, let's skip
 05:45:43 14 forward to February 4, 2003. Had you ever
 05:45:48 15 gotten any written commitments from anyone
 05:45:51 16 to whom you had shared HarvardConnection
 05:45:54 17 information with to hold that information
 05:45:58 18 confidential?
 05:45:58 19 A. Prior to February 4th, 2003?
 05:46:02 20 Q. Prior to February 4th, 2003, had you ever
 05:46:05 21 gotten any written commitments --
 05:46:06 22 A. 2004, you mean, right?
 05:46:08 23 Q. 2004. Yeah, let me start over, okay?
 05:46:10 24 Prior to February 4, 2004, had
 05:46:16 25 ConnectU or you or anyone else at

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05:43:48 1 my guess is that he was trying out a fright
 05:43:52 2 (sic) feature and clicked on my name and
 05:43:53 3 sent me a message, and I wrote
 05:43:55 4 back -- I believe I wrote back, like, "I
 05:43:58 5 missed your message, wasn't here," something
 05:44:00 6 to that extent.
 05:44:03 7 Q. And you never got his message, his
 05:44:07 8 substantive message?
 05:44:08 9 A. There was no substantive message.
 05:44:10 10 Q. Oh, it --
 05:44:11 11 A. I think he opened up a window and didn't
 05:44:13 12 write anything into it. You know, it was
 05:44:16 13 like a chat window.
 05:44:16 14 Q. Ah, okay. All right. So in 2003 when you
 05:44:25 15 began the relationship with Mr. Zuckerberg,
 05:44:28 16 were you aware of the need to protect the
 05:44:31 17 confidentiality of HarvardConnection's
 05:44:33 18 business plan?
 05:44:35 19 A. I was aware, yes, I would say that I was
 05:44:37 20 aware that it was a confidential plan.
 05:44:43 21 Q. Okay. And did you believe that you needed
 05:44:48 22 to do anything to protect that
 05:44:49 23 confidentiality?
 05:44:50 24 A. Other than sort of the express nature that
 5:44:57 25 it was confidential, I was not aware that we

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05:46:18 1 HarvardConnection, that you know of, ever
 05:46:20 2 obtained any written commitments from any
 05:46:22 3 third parties to respect confidentiality of
 05:46:25 4 HarvardConnection information that was
 05:46:26 5 shared with them?
 05:46:26 6 A. No, I don't think so.
 05:46:33 7 Q. All right. Now, you believe that you, I
 05:46:39 8 think testified earlier, got some sort of
 05:46:43 9 oral commitment from Mr. Lentz that he would
 05:46:47 10 respect confidentiality of HarvardConnection
 05:46:50 11 information; is that right?
 05:46:51 12 A. I believe it was oral, yes.
 05:46:55 13 Q. Right. Other -- and I want to come back to
 05:46:58 14 this alleged oral agreement that you had
 05:47:00 15 with Mr. Lentz. Other than Mr. Lentz, are
 05:47:03 16 you aware of any other oral agreements on
 05:47:09 17 the part of ConnectU, HarvardConnection or
 05:47:12 18 any of the people that were involved with it
 05:47:15 19 with third parties, that these third parties
 05:47:17 20 would respect the confidentiality of
 05:47:20 21 HarvardConnection information shared with
 05:47:21 22 them?
 05:47:21 23 MR. HORNICK: Could you read back
 05:47:22 24 that question before we --
 05:47:23 25 MR. HAWK: No, I'll restate it.

05:47:25 1 MR. HORNICK: Okay.
 05:47:26 2 Q. Prior to February 2004, did you or anyone
 05:47:29 3 else at HarvardConnection have any oral
 05:47:33 4 agreements with any third parties that they
 05:47:37 5 would respect the confidentiality of
 05:47:39 6 HarvardConnection information shared with
 05:47:41 7 those people?
 05:47:41 8 A. Other than our programmers, I don't believe
 05:47:48 9 so.
 05:47:48 10 Q. All right. Well, let's -- and which
 05:47:50 11 programmers did you have an oral commitment
 05:47:53 12 that they would respect confidentiality?
 05:47:56 13 A. Again, I didn't engage a lot of the initial
 05:47:59 14 programmers. Divya would most certainly
 05:48:01 15 have made it clear to them that it was
 05:48:05 16 proprietary information.
 05:48:06 17 Q. Okay. Let's just start with you. Other
 05:48:08 18 than Mr. Lentz, did you have an oral
 05:48:12 19 agreement with anyone else to respect
 05:48:14 20 confidentiality of HarvardConnection
 05:48:16 21 information?
 05:48:17 22 MR. HORNICK: You're asking him
 05:48:18 23 personally now, not as a 30(b)(6) witness,
 05:48:20 24 correct?
 05:48:20 25 A. Yeah, ConnectU or --

05:49:16 1 information were programmers, correct?
 05:49:18 2 A. Programmers and any trusted friends,
 05:49:22 3 close --
 05:49:22 4 Q. You didn't mention trusted friends a while
 05:49:25 5 ago.
 05:49:25 6 A. Well, I'm mentioning them now.
 05:49:28 7 Q. Oh, you thought -- all right. Let me -- I
 05:49:28 8 want you to give me the name of every person
 05:49:31 9 whom ConnectU or HarvardConnection had oral
 05:49:34 10 agreements with at any time to respect
 05:49:37 11 confidentiality.
 05:49:38 12 A. Well, I think we already went over them in
 05:49:40 13 the morning.
 05:49:40 14 Q. Just give me their names again. If we've
 05:49:42 15 gone over them, I won't belabor them.
 05:49:45 16 A. Okay. Well, Chris Lentz, Mr. Lentz. We
 05:49:48 17 talked about all the programmers, all the --
 05:49:51 18 Q. Just give me all their names, everybody you
 05:49:54 19 had an agreement with.
 05:49:55 20 A. I didn't --
 05:49:56 21 Q. I'm sorry, everybody that HarvardConnection
 05:49:58 22 had an agreement with.
 05:49:59 23 A. Okay. Let me think, so the -- Sanjay,
 05:50:07 24 Victor. Who else? Joseph, any employers --
 05:50:16 25 I don't know their names -- that Divya might

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05:48:23 1 MR. HORNICK: Hold on, Cameron.
 05:48:24 2 It's important. You asked him did you, so
 05:48:27 3 it's not 30(b)(6) testimony.
 05:48:29 4 MR. HAWK: Just listen to the
 05:48:29 5 question. If you have an objection, just
 05:48:29 6 make it. You're being silly here --
 05:48:32 7 MR. HORNICK: No, I'm not being --
 05:48:33 8 MR. HAWK: -- the last few minutes.
 05:48:33 9 BY MR. HAWK:
 05:48:33 10 Q. Okay. Look, you don't understand, and I'm
 05:48:35 11 sorry. Let me pose my question, okay? My
 05:48:39 12 question to you as a 30(b)(6) witness is,
 05:48:42 13 did you personally have any conversations
 05:48:44 14 with anyone else prior to February 4, 2004,
 05:48:48 15 aside from Mr. Lentz, about respecting the
 05:48:51 16 confidentiality of HarvardConnection
 05:48:53 17 information?
 05:48:53 18 MR. HORNICK: And I object, this is
 05:48:54 19 not 30(b)(6) testimony. You can answer as a
 05:48:58 20 personal witness.
 05:48:58 21 A. I believe that I personally did not have an
 05:49:05 22 oral agreement with those programmers.
 05:49:08 23 Q. Okay. Now, the only people that you think
 05:49:11 24 that there was an oral agreement to respect
 05:49:13 25 confidentiality of HarvardConnection

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05:50:18 1 have talked to, they would be bound as well.
 05:50:25 2 And as we said -- as I said, let's see, you
 05:50:30 3 have the -- you showed me an e-mail from
 05:50:32 4 Marko Soldo, Rob Scott. That's all I can
 05:50:37 5 think of.
 05:50:41 6 Q. All right. Well, let's start -- you left
 05:50:43 7 off Mr. Zuckerberg. So let's talk about him
 05:50:45 8 first.
 05:50:45 9 A. Oh, well -- yeah.
 05:50:47 10 Q. Let me just finish my question.
 05:50:51 11 Did you ever have an oral agreement
 05:50:52 12 with Mr. Zuckerberg in which Mr. Zuckerberg
 05:50:55 13 said words to the substance of "I understand
 05:51:00 14 this information is confidential, and I will
 05:51:02 15 respect that confidentiality"?
 05:51:05 16 A. To me personally --
 05:51:08 17 Q. Correct.
 05:51:08 18 A. -- he did not say that.
 05:51:11 19 Q. Okay. Did you hear him say that to anyone
 05:51:12 20 else?
 05:51:13 21 A. He, I think -- sorry. Can you rephrase --
 05:51:24 22 say the question again, please --
 05:51:25 23 Q. Yeah.
 05:51:25 24 A. -- what the phrase --
 05:51:25 25 Q. Yea.

05:51:27 1 A. -- was?

05:51:27 2 Q. Yeah. Did you overhear Mr. Zuckerberg

05:51:30 3 commit to anyone else at HarvardConnection

05:51:33 4 that he would respect the confidentiality of

05:51:36 5 information that he had been given about

05:51:38 6 HarvardConnection?

05:51:39 7 A. Specifically the phrasing that you used, no,

05:51:44 8 I did not overhear him say those words.

05:51:46 9 Q. Okay. All right. Fine. And did anyone --

05:51:51 10 did Mr. Narendra ever tell you at any time

05:51:53 11 that he had obtained assurances from Mr.

05:51:56 12 Zuckerberg that Mr. Zuckerberg would respect

05:52:00 13 confidentiality of HarvardConnection

05:52:02 14 information?

05:52:02 15 A. You know, as I said earlier, both Mr.

05:52:07 16 Narendra and Mr. Gao, specifically Mr. Gao,

05:52:10 17 explained to Mr. Zuckerberg the proprietary

05:52:14 18 and confidential nature of the --

05:52:16 19 Q. That wasn't my question, sir. My question

05:52:18 20 was, did Mr. Narendra ever tell you that Mr.

05:52:21 21 Zuckerberg had committed to him to respect

05:52:24 22 the confidentiality of HarvardConnection

05:52:26 23 information?

05:52:28 24 A. I'm not sure. I don't -- I believe that in

05:52:34 25 the second meeting when we were all present

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05:52:36 1 we made it very clear the proprietary nature

05:52:39 2 of the site. Making something clear that

05:52:42 3 it's proprietary is not -- is the same

05:52:45 4 effect of telling someone "Don't tell them,"

05:52:48 5 you know?

05:52:48 6 Q. Not my question.

05:52:49 7 A. Because Mr. Zuckerberg understands what

05:52:52 8 proprietary information is.

05:52:52 9 Q. I'm not asking about what Mr. Zuckerberg

05:52:54 10 understood. My question was very specific,

05:52:56 11 and I'll ask it for the third time --

05:52:58 12 MR. HORNICK: And I'll object that

05:53:00 13 he's answered it many times today and that

05:53:02 14 you're now badgering the witness again.

05:53:04 15 MR. HAWK: Okay. All right. Let's

05:53:05 16 just have it again. If he doesn't want to

05:53:08 17 answer the question again, he doesn't -- you

05:53:10 18 know, I can't make him.

05:53:11 19 MR. HORNICK: And otherwise, it's

05:53:12 20 asking him personally. You're asking a

05:53:12 21 personal question here, not a 30(b)(6)

05:53:15 22 question.

05:53:16 23 MR. HAWK: Yeah, okay. Whatever.

05:53:18 24 BY MR. HAWK:

05:53:18 25 Q. Did Mr. Narendra ever tell you that Mr.

05:53:20 1 Zuckerberg had committed in his presence to

05:53:21 2 respect the confidentiality of

05:53:23 3 HarvardConnection information?

05:53:26 4 A. Let's just say -- I would say that --

05:53:31 5 Q. Did he ever -- yes or no, did he ever tell

05:53:33 6 you that?

05:53:34 7 MR. HORNICK: Let him finish his

05:53:35 8 answer, Robert.

05:53:36 9 A. Mr. Zuckerberg agreeing to become part of

05:53:38 10 the team, and to answer any questions that

05:53:42 11 you might have like -- let's not talk about

05:53:44 12 micro this, that, words, phrases, okay?

05:53:48 13 Q. No, that's not what my question was.

05:53:50 14 MR. HORNICK: Robert, let him

05:53:51 15 finish his answer.

05:53:51 16 MR. HAWK: I want him to answer my

05:53:53 17 question.

05:53:53 18 A. His agreement to complete that side of the

05:53:55 19 code and become part of the team was

05:53:57 20 understanding and accepting of the fact that

05:54:00 21 it's proprietary information, and as I

05:54:03 22 pointed out on C4 -- 46 -- whatever that

05:54:09 23 document was, the fact that Mr. Zuckerberg

05:54:11 24 didn't use our code proves that he was fully

05:54:15 25 aware of it. So, you know, you're asking --

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05:54:18 1 I can't recall every instance and every

05:54:21 2 personal sentence that was said to Mr.

05:54:23 3 Zuckerberg and if he said yes, like, you

05:54:26 4 know, specifically in the way that you're

05:54:28 5 describing to this person that he

05:54:30 6 understood. What I'm saying is that by

05:54:32 7 becoming part of the team he effectively and

05:54:35 8 directly knew that it was proprietary and

05:54:39 9 confidential information.

05:54:39 10 Q. Right. But do you understand, sir, that you

05:54:42 11 haven't answered my question?

05:54:43 12 MR. HORNICK: Object. He has

05:54:44 13 answered your question, and again you sit

05:54:46 14 there and you shake your head while he's

05:54:48 15 talking and you keep cutting him off. It's

05:54:51 16 oppressive.

05:54:51 17 MR. HAWK: Well, I think the Judge

05:54:52 18 is going to shake his head, and I --

05:54:55 19 MR. HORNICK: The Judge can't see

05:54:57 20 your behavior.

05:54:57 21 MR. HAWK: Well, we'll put it

05:54:59 22 before the Judge because this witness is not

05:55:00 23 answering my question.

05:55:01 24 MR. HORNICK: I think if you go

05:55:02 25 back and read the transcript calmly, you'll

05:55:04 1 realize that he has answered all your
 05:55:06 2 questions today, you just don't like the
 05:55:07 3 answers.
 05:55:08 4 MR. HAWK: Okay. All right.
 05:55:08 5 MR. CHATTERJEE: I think he doesn't
 05:55:09 6 like the questions, but...
 05:55:10 7 MR. HAWK: Yeah. Yeah.
 05:55:15 8 BY MR. HAWK:
 05:55:19 9 Q. Let me go one other place --
 05:55:22 10 A. Sure.
 05:55:22 11 Q. -- all right? Or two other places. I want
 05:55:26 12 to talk about your -- this supposed
 05:55:27 13 confidentiality commitment that Mr. Lentz
 05:55:29 14 made.
 05:55:30 15 A. Uh-huh.
 05:55:30 16 Q. When did he make that commitment to you,
 05:55:33 17 sir?
 05:55:33 18 A. He would -- what time? What time frame?
 05:55:38 19 Q. Yeah. When?
 05:55:38 20 A. It could be about Thanksgiving or so or
 05:55:41 21 whenever we talked prior, you know, on the
 05:55:44 22 phone.
 05:55:44 23 Q. Was it on the phone, or was it in person?
 05:55:46 24 A. I can't recall specifically if it was -- it
 05:55:49 25 would have been one or the other.

05:57:05 1 second meeting, as I said, yes.
 05:57:09 2 Q. So Friendster was also a model for ConnectU,
 05:57:13 3 correct?
 05:57:13 4 A. To that extent, yeah, it would be.
 05:57:16 5 Q. All right. And what other models were there
 05:57:21 6 for HarvardConnection, aside from
 05:57:22 7 Friendster?
 05:57:23 8 A. As I said, we -- you know, you've looked
 05:57:26 9 through the documents. I mean, we've talked
 05:57:28 10 about -- we looked at Yahoo Personals. I
 05:57:32 11 think that a lot of it was just sort of our
 05:57:35 12 own thought. So those were -- I would say
 05:57:38 13 those were two main sites that were
 05:57:40 14 bookmarked.
 05:57:40 15 Q. Yahoo Personals and Facebook. Any other
 05:57:44 16 models?
 05:57:45 17 A. No, not Facebook, Friendster.
 05:57:47 18 Q. Yeah. Other than Yahoo Personals and
 05:57:50 19 Friendster, any other models for
 05:57:53 20 HarvardConnection?
 05:57:54 21 A. I might have looked at some other sites like
 05:57:57 22 maybe looked at American Single -- actually,
 05:58:00 23 no, that was post-February. Pretty much
 05:58:05 24 those two sites did it well. There could --
 05:58:08 25 I mean, I guess Divya mentioned TigerLink,

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05:55:51 1 Q. And who was there? Was there anyone else
 05:55:55 2 present either on the phone or in person?
 05:55:57 3 A. No, it would have only been the two of us.
 05:55:59 4 Q. Okay. And give us your best recollection of
 05:56:05 5 specifically what was said during the
 05:56:07 6 conversation in which you say that Mr. Lentz
 05:56:10 7 gave you an oral agreement regarding
 05:56:13 8 confidentiality?
 05:56:14 9 A. Well, it was both of us. We were talking
 05:56:18 10 about a business synergy potential. He had
 05:56:23 11 protectable stuff. I had protectable stuff.
 05:56:25 12 We acknowledged to respect that and protect
 05:56:27 13 that, and that's really to the extent I can
 05:56:29 14 tell you.
 05:56:32 15 Q. Whose idea was it to enter into this sort of
 05:56:34 16 bilateral confidentiality commitment? Was
 05:56:36 17 it his, or was it yours?
 05:56:38 18 A. I would say it was mutual. We both had
 05:56:42 19 protectable stuff that we were bringing to
 05:56:44 20 the table.
 05:56:45 21 Q. You don't recall who raised it first?
 05:56:47 22 A. No, I don't.
 05:56:57 23 Q. So it's correct that Friendster was a model
 05:57:00 24 for HarvardConnection, correct?
 05:57:02 25 A. We bookmarked it. We talked about it in the

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05:58:11 1 that Princeton website that had some alumni
 05:58:14 2 offerings. I think that's about it.
 05:58:16 3 Q. Okay. So the three models for
 05:58:18 4 HarvardConnection that you recall were the
 05:58:21 5 Princeton website, Friendster and Yahoo
 05:58:25 6 Personals, correct?
 05:58:26 7 A. Yeah, I believe so.
 05:58:27 8 Q. Did you do any specific research, let's say,
 05:58:40 9 prior to February 4, 2004 to determine if
 05:58:43 10 anyone out there was working on or doing
 05:58:46 11 what you were proposing to do with
 05:58:48 12 HarvardConnection?
 05:58:49 13 A. We did look -- I mean, as I said, we looked
 05:58:53 14 at those various sites. We did not come
 05:58:55 15 across the sites that I said we didn't come
 05:58:58 16 across in the previous set of questioning.
 05:59:02 17 And as I've also said in this set of
 05:59:04 18 questioning that it's to my knowledge that
 05:59:09 19 today at that -- prior to February 4th there
 05:59:12 20 was nothing like HarvardConnection.
 05:59:13 21 Q. Yeah, but my question is very specific here.
 05:59:16 22 Did you or, to your knowledge, anyone else
 05:59:18 23 at HarvardConnection do any research
 05:59:22 24 specifically directed at determining if
 05:59:25 25 there was anyone else out there who was

05:59:27 1 already doing what you were thinking about
 05:59:29 2 doing with HarvardConnection?
 05:59:30 3 MR. HORNICK: Objection, asked and
 05:59:31 4 answered. You can answer it again.
 05:59:32 5 A. Yeah, I mean I believe that I did answer in
 05:59:34 6 the first part of my answer, and that is --
 05:59:37 7 Q. Yes.
 05:59:37 8 A. -- that we looked at those two sites and the
 05:59:41 9 Princeton site, and we looked at -- we --
 05:59:43 10 you have to also remember, we were dealing
 05:59:45 11 with computer programmers, and these people,
 05:59:48 12 they know everything that's out there.
 05:59:50 13 Nothing was brought to our attention.
 05:59:52 14 Nothing came to our attention. We Googled a
 05:59:54 15 lot of different stuff, and we didn't find
 05:59:56 16 it.
 05:59:56 17 Q. So you did do research?
 05:59:57 18 A. I would say it's fair to say that we looked
 05:59:59 19 into it, and we didn't come up with anything
 06:00:02 20 that was similar, no.
 06:00:05 21 Q. Okay. Fine. We're in the homestretch since
 06:00:09 22 we're almost out of time. We have to be in
 06:00:12 23 the homestretch. I want to talk about Mr.
 06:00:16 24 Moskovitz.
 06:00:16 25 A. Sure.

06:01:10 1 A. Yeah, I can't say that.
 06:01:13 2 MR. HAWK: No, I want to know if he
 06:01:14 3 knows or not.
 06:01:15 4 MR. HORNICK: I told you he can't
 06:01:17 5 answer this question without seeing
 06:01:18 6 confidential information.
 06:01:19 7 MR. HAWK: I appreciate your
 06:01:21 8 testimony, but I'm asking for his, and I
 06:01:23 9 just want to know if he knows the answer to
 06:01:25 10 the question.
 06:01:26 11 BY MR. HAWK:
 06:01:27 12 Q. Sir, do you know, did Mr. Moskovitz ever see
 06:01:29 13 any Web page or any version of the
 06:01:35 14 HarvardConnection website?
 06:01:36 15 A. I cannot say other than what I've stated
 06:01:36 16 before, which is that I believe, based on
 06:01:36 17 evidence, that he was involved in the
 06:01:38 18 creation of Thefacebook, which I believe was
 06:01:39 19 a derivative work of HarvardConnection.
 06:01:42 20 Q. Yeah, but that's not my question. My
 06:01:44 21 question is, did Mr. Moskovitz ever see any
 06:01:47 22 Web page --
 06:01:47 23 A. I don't --
 06:01:47 24 Q. -- for any version of the HarvardConnection
 06:01:50 25 website?

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06:00:16 1 Q. All right? When did Mr. Moskovitz first
 06:00:20 2 become involved in doing any work on behalf
 06:00:23 3 of Thefacebook, what day?
 06:00:24 4 A. I believe that he was in the creation. I
 06:00:27 5 don't know what day that would be.
 06:00:28 6 Q. And your belief that he was in the creation
 06:00:33 7 is based on the website?
 06:00:35 8 MR. HORNICK: Objection, asked and
 06:00:36 9 answered. Mischaracterizes it, too.
 06:00:37 10 A. It's based on the website, based on the
 06:00:43 11 press accounts and based on the fact that
 06:00:44 12 they are roommates and he is a computer
 06:00:46 13 programmer.
 06:00:47 14 Q. Okay. When did Mr. Moskovitz first become
 06:00:49 15 aware of HarvardConnection?
 06:00:50 16 A. As I said, I can't specifically say when he
 06:00:55 17 became aware of HarvardConnection.
 06:00:57 18 Q. Did Mr. Moskovitz ever see any Web page for
 06:01:00 19 any version of the HarvardConnection
 06:01:03 20 website?
 06:01:04 21 A. I cannot say that specifically.
 06:01:05 22 Q. You don't know?
 06:01:07 23 MR. HORNICK: The witness can't
 06:01:08 24 answer this question without seeing
 6:01:10 25 confidential information.

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06:01:50 1 A. I don't know.
 06:01:50 2 Q. Okay.
 06:01:51 3 A. I don't know.
 06:01:51 4 Q. That was easy, wasn't it? Did Mr. Moskovitz
 06:01:55 5 ever see any line of source code for
 06:01:57 6 HarvardConnection?
 06:01:58 7 A. Again, it's my belief; however, I don't
 06:02:02 8 know.
 06:02:02 9 Q. You don't know?
 06:02:03 10 A. But my belief, based on evidence --
 06:02:04 11 Q. I didn't ask for your belief. Remember the
 06:02:06 12 little lecture that I gave at the beginning?
 06:02:08 13 MR. HORNICK: He's entitled to give
 06:02:10 14 his answer, Robert.
 06:02:11 15 MR. HAWK: Okay. And I'm entitled
 06:02:12 16 to cross-examine the witness.
 06:02:14 17 MR. HORNICK: And you're --
 06:02:14 18 Q. Did Mr. --
 06:02:14 19 MR. HORNICK: I'm not going to let
 06:02:16 20 you trap him in a corner.
 06:02:16 21 Q. Did Mr. Moskovitz ever see any line of
 06:02:20 22 source code for HarvardConnection?
 06:02:22 23 A. It's my belief that he did.
 06:02:25 24 Q. Okay. Do you know if Mr. Moskovitz ever saw
 06:02:27 25 any line of source code for

<p>06:02:29 1 HarvardConnection? I'm not asking for your 06:02:31 2 belief. Do you know whether he ever saw any 06:02:33 3 line of source code? 06:02:34 4 A. If by that have I seen him, I would say no, 06:02:40 5 I do not know -- 06:02:41 6 Q. Fine. 06:02:41 7 A. -- I believe. 06:02:42 8 Q. Did Mr. Moskowitz -- did Mr. Zuckerberg ever 06:02:46 9 discuss or otherwise communicate to Mr. 06:02:49 10 Moskowitz anything about HarvardConnection? 06:02:52 11 A. It is my belief that he did. I do not know. 06:02:54 12 Q. All right. And let me ask you these 06:03:00 13 questions, then, about Mr. McCollum: When 06:03:02 14 did Mr. McCollum first become involved in 06:03:05 15 doing any work on behalf of Thefacebook? 06:03:08 16 A. Again, based on the fact that he's a 06:03:11 17 creator, the fact the press accounts 06:03:12 18 involved mult -- you know -- 06:03:14 19 Q. What day? 06:03:15 20 A. I don't know what day. 06:03:16 21 Q. Okay. Do you know what month? 06:03:18 22 A. It's my belief that it's -- 06:03:21 23 Q. Do you know what month? 06:03:22 24 A. Prior -- it would be -- it would have 06:03:26 25 been -- I can give you a time frame.</p>	<p>06:04:11 1 about your belief, I'm asking about your 06:04:13 2 knowledge, and I have been for the last 20 06:04:14 3 questions, all right? 06:04:16 4 MR. HORNICK: Objection, 06:04:17 5 argumentative. And there's no question 06:04:18 6 pending so just ask another question. 06:04:21 7 Q. Did Mr. McCollum ever discuss or otherwise 06:04:24 8 communicate with Mr. Zuckerberg about 06:04:27 9 HarvardConnection? 06:04:29 10 A. To the extent that he was in the creation of 06:04:32 11 Thefacebook, yes. 06:04:33 12 Q. And what's that based on, sir? 06:04:35 13 A. As I've gone over before, he was -- well, 06:04:42 14 his creation is based on news accounts. 06:04:44 15 Q. What did Mr. Zuckerberg communicate to Mr. 06:04:50 16 McCollum about HarvardConnection? 06:04:53 17 A. I can't say specifically what he 06:04:55 18 communicated. As I said before, all four 06:04:57 19 defendants were creators of Thefacebook 06:05:01 20 entity, okay, based on accounts and based on 06:05:05 21 multiple different accounts. They are 06:05:07 22 creators, okay? 06:05:09 23 Q. Did Mr. McCollum write any of the source 06:05:11 24 code for Thefacebook? 06:05:12 25 A. I do not know that. I don't know.</p>
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06:03:28 1 After --
06:03:29 2 Q. I'm just asking you, do you know what month
06:03:32 3 that Mr. McCollum became involved?
06:03:34 4 A. No, I can't --
06:03:35 5 Q. Okay.
06:03:35 6 A. -- answer specifically what month he
06:03:37 7 became --
06:03:37 8 Q. All right.
06:03:37 9 A. -- involved.
06:03:37 10 Q. Fine. And do you know when Mr. McCollum
06:03:40 11 first became aware of HarvardConnection?
06:03:42 12 A. I do not know specifically when he became
06:03:46 13 aware.
06:03:47 14 Q. Do you know or -- let me just ask you this:
06:03:49 15 Did Mr. McCollum ever see any Web page for
06:03:52 16 any version of the HarvardConnection
06:03:53 17 website?
06:03:54 18 A. It is my belief that he did. I do not know
06:03:56 19 if he did.
06:03:57 20 Q. Okay. And did Mr. McCollum ever see any
06:04:01 21 line of source code for HarvardConnection?
06:04:02 22 A. Again, it's my belief, based on evidence,
06:04:05 23 that he did. I do not know if he did.
06:04:08 24 Q. All right. You know what? I'm just going
06:04:09 25 to make it easy for you. I'm not asking

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06:05:14 1 Q. Okay. Well, let's switch gears, then, to
06:05:17 2 Mr. Hughes. When did Mr. Hughes first
06:05:21 3 become involved in doing any work on behalf
06:05:24 4 of Thefacebook?
06:05:24 5 A. I don't know the specific date.
06:05:28 6 Q. Okay. When did Mr. Hughes first become
06:05:31 7 aware of HarvardConnection?
06:05:34 8 A. I don't know the specific date.
06:05:37 9 Q. Did Mr. Hughes ever see any Web page for any
06:05:40 10 version of the HarvardConnection website?
06:05:42 11 A. It's my belief that he did --
06:05:45 12 Q. No, I'm not asking about your belief, sir.
06:05:47 13 Did Mr. Hughes ever see any Web page for any
06:05:52 14 version of the HarvardConnection website?
06:05:54 15 A. I do not know.
06:05:55 16 Q. Okay. Did Mr. Hughes ever see any line of
06:05:58 17 source code for HarvardConnection?
06:06:01 18 A. I do not know.
06:06:03 19 Q. Did Mr. Zuckerberg ever discuss or otherwise
06:06:06 20 communicate with Mr. Hughes about
06:06:09 21 HarvardConnection?
06:06:10 22 A. It's -- yes, my belief is that he did --
06:06:13 23 Q. I'm not asking about your belief --
06:06:14 24 A. You asked --
06:06:16 25 Q. -- I'm asking about your knowledge.

06:06:17 1 A. -- my knowledge. And my knowledge -- and
 06:06:19 2 we've already gone over this five -- this is
 06:06:22 3 the fifth time we've gone over it, is that
 06:06:24 4 my knowledge is based on my belief and
 06:06:26 5 evidence that Thefacebook is a derivative
 06:06:28 6 work of HarvardConnection. And with that
 06:06:31 7 respect, yes, he did, I can say that, yes,
 06:06:33 8 he did communicate --
 06:06:36 9 Q. Okay.
 06:06:37 10 A. -- knowledge of HarvardConnection.
 06:06:38 11 Q. Okay. What did Mr. Zuckerberg communicate
 06:06:39 12 to Mr. Hughes about HarvardConnection?
 06:06:42 13 A. Specifically, I cannot say what.
 06:06:44 14 Q. Okay. And did Mr. Hughes write any of the
 06:06:48 15 source code for Thefacebook?
 06:06:49 16 A. I do not know.
 06:06:57 17 MR. HAWK: I think we're about out
 06:06:58 18 of tape, near enough.
 06:07:01 19 THE VIDEOGRAPHER: A few more
 06:07:02 20 minutes.
 06:07:03 21 MR. HAWK: Let's go off the record,
 06:07:04 22 please, for five minutes. I'm going to
 06:07:07 23 confer with co-counsel, and I may be done.
 06:07:12 24 THE VIDEOGRAPHER: The time is 6:07
 06:07:16 25 and we're off the record.

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06:07:18 1 (Recess taken.)
 06:11:29 2 THE VIDEOGRAPHER: The time is
 06:11:32 3 6:11, and we are back on the record.
 06:11:37 4 BY MR. HAWK:
 06:11:38 5 Q. Just a couple more questions. When someone
 06:11:43 6 went to the HarvardConnection URL in --
 06:11:49 7 prior to February 4, 2004, what did they
 06:11:56 8 see?
 06:11:56 9 A. They saw a front page.
 06:12:00 10 Q. Was there ever anything accessible on the
 06:12:03 11 website prior to February 2004 other than
 06:12:07 12 just a single front home page?
 06:12:10 13 A. I believe that they would have to log in to
 06:12:14 14 get to the bulk of the site functionality.
 06:12:18 15 I think there may have been a splash -- like
 06:12:23 16 if you -- I think you could go one step
 06:12:26 17 beyond the front page and access what would
 06:12:29 18 be a search field, but it would -- to do any
 06:12:31 19 kind of searching would prompt you for a
 06:12:33 20 log-in.
 06:12:35 21 Q. And what did you need to log in?
 06:12:37 22 A. You would have to register.
 06:12:38 23 Q. And when could people register for the
 06:12:42 24 HarvardConnection -- first register for the
 6:12:45 25 HarvardConnection website?

06:12:46 1 A. See, I think the registration pages were
 06:12:49 2 never actually completed, and so I don't
 06:12:53 3 believe a user could register unless the
 06:12:55 4 programmer registered them.
 06:13:00 5 Q. How many -- how many people were registered
 06:13:03 6 by the programmers or otherwise prior to
 06:13:06 7 February 4, 2004 for HarvardConnection?
 06:13:08 8 A. I think myself, Divya, Tyler, Victor,
 06:13:14 9 Sanjay. I'm not sure if Mark was
 06:13:16 10 registered. Joseph Jackson would have been.
 06:13:22 11 I believe those would be all the people that
 06:13:24 12 were registered.
 06:13:24 13 Q. You don't think there was anyone besides
 06:13:28 14 yourself and the programmers and the
 06:13:29 15 partners of HarvardConnection that were ever
 06:13:31 16 registered prior to February 4, 2004?
 06:13:33 17 A. One -- there may have been a trusted friend
 06:13:39 18 that was asked to potentially test out the
 06:13:41 19 site who was registered, but --
 06:13:43 20 Q. How many trusted friends were asked?
 06:13:45 21 A. There may have been one or two.
 06:13:49 22 Q. What did you need to log in?
 06:13:51 23 A. A user name and password.
 06:13:54 24 Q. And how many people were ever given this
 06:13:57 25 user name and password prior to February 4,

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06:14:00 1 2004?
 06:14:01 2 A. I mean, those -- the people that I just
 06:14:05 3 outlined as potential registered users would
 06:14:08 4 have had log-in and password. That would
 06:14:12 5 have been the extent.
 06:14:12 6 Q. So without the user log-in and password, you
 06:14:16 7 could see two pages of the HarvardConnection
 06:14:21 8 website, correct?
 06:14:21 9 A. Yes.
 06:14:21 10 Q. And the URL to reach that functioning
 06:14:24 11 website such as it was was
 06:14:26 12 www.harvardconnection.com, right?
 06:14:29 13 A. That would take you to the splash front
 06:14:34 14 page.
 06:14:34 15 Q. Right. And then you could get to one other
 06:14:36 16 search page beyond that, right?
 06:14:37 17 A. You could get to one other page. That would
 06:14:39 18 be a logged-out page, yeah. You would not
 06:14:41 19 be like a log-in user.
 06:14:44 20 Q. Right. And what showed up on the logged-out
 06:14:47 21 page, this second page?
 06:14:48 22 A. As I said, it was basically a search, and to
 06:14:51 23 do anything to prompt, you would have to log
 06:14:54 24 in. It would have probably had links
 06:14:55 25 illustrating -- sort of duplicating the

06:14:57 1 front two links. And I think that's about
 06:15:03 2 it.
 06:15:03 3 Q. I mean, did it show both the connect and the
 06:15:05 4 dating functionality of the website, or
 06:15:10 5 suggest it?
 06:15:10 6 A. You would be suggested just by the name and
 06:15:12 7 what you saw on the front. But, again, I
 06:15:17 8 don't think -- it's speculation for me to
 06:15:19 9 say what a person could infer other than the
 06:15:21 10 fact that they would see a search that they
 06:15:24 11 couldn't use.
 06:15:24 12 Q. Okay. Would you look at Defendants' Exhibit
 06:15:29 13 11 to the deposition again. There are two
 06:15:33 14 URLs on that e-mail, correct?
 06:15:36 15 A. Right. Right.
 06:15:37 16 Q. What is the -- what is the second URL, the
 06:15:40 17 one that has php --
 06:15:43 18 A. Connect home?
 06:15:44 19 Q. Right.
 06:15:44 20 A. Is that what you're talking about?
 06:15:48 21 Q. Right.
 06:15:48 22 A. Yeah, I'm not sure if that page was up at
 06:15:51 23 this time. Well, I guess that would be sort
 06:15:54 24 of a landing page for the connect side. So
 06:15:59 25 there's two layers of pages, and you would

06:16:56 1 Q. All right. Have you ever had any
 06:16:58 2 communications with Mr. McCollum?
 06:17:02 3 A. No, I have not.
 06:17:03 4 Q. Have you ever had any communications with
 06:17:04 5 Mr. Hughes?
 06:17:05 6 A. No, I have not.
 06:17:06 7 Q. Who have you spoken with about this lawsuit,
 06:17:18 8 other than your attorneys?
 06:17:19 9 A. And the part -- you know, the partners
 06:17:23 10 involved in ConnectU?
 06:17:25 11 Q. Yeah. Let's exclude them.
 06:17:26 12 A. Well, what do you mean by "speak"? I mean,
 06:17:29 13 do you mean --
 06:17:29 14 Q. Communicate by e-mail or speak over the
 06:17:31 15 telephone or in person.
 06:17:32 16 A. I think, you know, certainly there's been
 06:17:35 17 people that have asked, including reporters,
 06:17:39 18 who have said, you know, "Are you suing?",
 06:17:40 19 and "Do you have a lawsuit?"
 06:17:42 20 Q. Okay.
 06:17:43 21 A. Those people would be some.
 06:17:46 22 Q. Excluding reporters, who else? Excluding
 06:17:49 23 reporters and your partners and your
 06:17:52 24 lawyers, who else have you spoken with --
 06:17:53 25 spoken to or communicated to about this

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06:16:02 1 go on the splash side. There would be the
 06:16:04 2 front splash, and then if you went down the
 06:16:06 3 date side, you'd hit a search that you can't
 06:16:09 4 use, and if you went down the connect side,
 06:16:12 5 you would hit a search that you couldn't
 06:16:14 6 use.
 06:16:14 7 Q. And so what -- would that second URL give
 06:16:16 8 you access to the actual source code?
 06:16:18 9 A. No. No, it would not. It would -- I
 06:16:21 10 believe it was just a duplication of the
 06:16:24 11 date home, what that search -- but it would
 06:16:28 12 not give you -- again, you would have to log
 06:16:31 13 in. And that side was even less complete,
 06:16:34 14 so even if you logged in you may not have
 06:16:36 15 been able to operate anything.
 06:16:38 16 Q. Did you ever access the source code for
 06:16:42 17 HarvardConnection?
 06:16:42 18 A. No, I don't believe that I've looked at the
 06:16:48 19 source code.
 06:16:49 20 Q. Have you ever had any communications,
 06:16:51 21 e-mail, telephone, meetings, otherwise, with
 06:16:53 22 Mr. Moskovitz?
 06:16:53 23 A. Huh-uh.
 06:16:55 24 Q. No?
 06:16:55 25 A. No.

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06:17:56 1 lawsuit?
 06:17:57 2 A. Specifically about the details of the
 06:17:59 3 lawsuit I don't believe anybody outside of
 06:18:02 4 counsel and the parties sort of involved in
 06:18:05 5 terms of myself, Tyler and Divya and Howard.
 06:18:10 6 Other than that, there's been hundreds of
 06:18:12 7 people who have said, "Oh, I hear you're
 06:18:15 8 suing Thefacebook," or I heard this and
 06:18:17 9 that, to which, you know, my response is,
 06:18:19 10 "Yes, we are suing them."
 06:18:22 11 Q. Have you had any discussions with anyone in
 06:18:24 12 which you've discussed the possibility of
 06:18:26 13 them being a witness in this litigation?
 06:18:29 14 A. No. To the extent that, you know, Victor
 06:18:33 15 Gao is -- you know, Victor and all the
 06:18:35 16 previous programmers are aware that they
 06:18:38 17 could be involved with the lawsuit by the
 06:18:39 18 nature of their involvement with
 06:18:41 19 HarvardConnection, but with respect to them
 06:18:44 20 being a witness, no.
 06:18:48 21 Q. Okay. So you have not spoken with Mr. Gao
 06:18:51 22 about the possibility of him being a
 06:18:52 23 witness?
 06:18:52 24 A. He's -- Mr. Gao is aware that he's an
 06:18:58 25 authority on the HarvardConnection code. So

06:19:01 1 what exactly do you mean in terms of
 06:19:03 2 "witness"? What respect --
 06:19:03 3 Q. A witness --
 06:19:04 4 A. -- to a witness?
 06:19:05 5 Q. -- to testify at trial or to provide written
 06:19:09 6 testimony. That's what I mean by a witness.
 06:19:12 7 Have you spoken to Mr. Gao about the
 06:19:14 8 possibility of him being a witness in this
 06:19:18 9 proceeding?
 06:19:18 10 A. I told Mr. Gao that there was a very good
 06:19:21 11 chance that he would be involved in the
 06:19:23 12 proceeding, yes.
 06:19:23 13 Q. And what was his reaction?
 06:19:24 14 A. He was fine and at ease with it.
 06:19:27 15 Q. Who else besides Mr. Gao have you
 06:19:30 16 communicated to that they may be somehow
 06:19:32 17 involved in the proceeding?
 06:19:33 18 A. You know, let's see. I'm not sure if
 06:19:49 19 there's anybody else really that I've really
 06:19:52 20 mentioned that they would be involved,
 06:19:55 21 maybe -- any programmer really could be
 06:20:00 22 potentially brought into this situation.
 06:20:03 23 Q. Right. But I'm asking you who you've
 06:20:05 24 mentioned it to.
 06:20:07 25 A. Okay. Well, every programmer that we've

06:21:11 1 Q. Any of your trusted friends that you've
 06:21:13 2 mentioned earlier, have you told any of
 06:21:14 3 them --
 06:21:15 4 A. Are you referring to prior litigation or --
 06:21:17 5 Q. No. I'm referring to this litigation,
 06:21:18 6 mentioning to them that they may be involved
 06:21:20 7 in the litigation as a witness or in some
 06:21:23 8 other capacity.
 06:21:23 9 A. Friends, let's see. Not sure -- I just -- I
 06:21:30 10 don't believe that I -- you know, any of my
 06:21:32 11 friends would -- there would be reason to
 06:21:34 12 believe that they would be involved. So I
 06:21:36 13 would say no to that answer (sic).
 06:21:39 14 Q. Okay.
 06:21:40 15 MR. HAWK: All right. Well, fair
 06:21:41 16 enough. We're out of tape. We're out of
 06:21:46 17 minutes for this seven-hour chunk that we're
 06:21:49 18 entitled to, so we'll see you another day.
 06:21:54 19 THE WITNESS: All righty.
 06:21:55 20 MR. HORNICK: I would actually like
 06:21:57 21 to put something on the record. How much
 06:21:59 22 time do you have?
 06:22:00 23 THE VIDEOGRAPHER: A minute and a
 06:22:01 24 half.
 06:22:01 25 MR. HORNICK: New tape.

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6:20:09 1 worked with we've, you know, told that we
 06:20:12 2 had a lawsuit and that they -- there might
 06:20:15 3 be a chance at some point that they could be
 06:20:17 4 involved with it.
 06:20:18 5 Q. Okay. And when you mentioned that to Mr.
 06:20:21 6 Jackson, what was his reaction?
 06:20:23 7 A. Well, Mr. Jackson didn't really have a
 06:20:30 8 reaction. I mean, again, I asked him for
 06:20:33 9 his copyright assignments, and that was
 06:20:38 10 that, really. He didn't have much to say
 06:20:39 11 about it.
 06:20:40 12 Q. What about Mr. Gao; what was his reaction?
 06:20:42 13 MR. HORNICK: Asked and answered.
 06:20:43 14 A. Again --
 06:20:44 15 Q. Oh, I'm sorry, I already asked Gao. I meant
 06:20:47 16 Mr. -- well, I can't say Sanjay's last name.
 06:20:50 17 What about Sanjay?
 06:20:51 18 A. Again, he didn't really have much to say
 06:20:53 19 about it. I don't think he -- you know,
 06:20:57 20 these guys don't really have much of an
 06:21:00 21 opinion, really.
 06:21:02 22 Q. What about your mother; have you told her
 06:21:04 23 that she may be involved?
 06:21:05 24 A. Sure. She's aware that there's -- there
 06:21:09 25 could be pending litigation, absolutely.

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06:22:01 1 THE VIDEOGRAPHER: Pardon me?
 06:22:03 2 MR. HORNICK: A new tape.
 06:22:03 3 THE VIDEOGRAPHER: The time is
 06:22:04 4 6:22. This is the end of Tape No. 6, and we
 06:22:11 5 are off the record.
 06:22:24 6 (Discussion off the record.)
 06:22:32 7 THE VIDEOGRAPHER: The time is
 06:23:26 8 6:23. This is the beginning of Tape 7, and
 06:23:27 9 we are back on the record.
 06:23:30 10 MR. HORNICK: Neel, you indicated
 06:23:31 11 earlier today, I think it was off the
 06:23:33 12 record, that you were dissatisfied with
 06:23:35 13 certain answers and you wanted to meet and
 06:23:37 14 confer about them as a first step before
 06:23:39 15 going to the Judge. I'm willing to do that
 06:23:41 16 now, and if you have any specific questions
 06:23:44 17 that you would like to reask the witness,
 06:23:46 18 you can have that opportunity now as long as
 06:23:48 19 it's a reasonable amount of time. You know,
 06:23:50 20 we are over the seven-hour limit. And that
 06:23:52 21 goes for you, too, Robert.
 06:23:54 22 MR. CHATTERJEE: I think the more
 06:23:56 23 wise strategy is there's such an incredible
 06:23:59 24 volume of questions that Mr. Winklevoss
 06:24:00 25 would not answer, we are happy to identify

06:24:02 1 the questions and the answers we think are
 06:24:05 2 non-responsive and to try and come up with a
 06:24:06 3 productive way to get direct, concrete,
 06:24:10 4 specific answers to those questions.
 06:24:12 5 Going through them all now would
 06:24:14 6 simply keep us here till way too late, and
 06:24:18 7 given that Mr. Winklevoss has already had a
 06:24:20 8 long day, I think prudence would suggest
 06:24:22 9 that we get a very clear record and we meet
 06:24:25 10 and confer based upon that record upon what
 06:24:28 11 questions we want answered. And perhaps we
 06:24:30 12 will be able to come up with a more
 06:24:32 13 effective way than bringing Mr. Winklevoss
 06:24:34 14 back here and requiring him to sit through
 06:24:38 15 restatements of those questions.
 06:24:40 16 MR. HORNICK: Well, I'm giving your
 06:24:43 17 opportunity now, and I'm not agreeing to
 06:24:45 18 bring the witness back under any
 06:24:46 19 circumstances. I believe today when you
 06:24:48 20 asked me to meet and confer, you identified
 06:24:50 21 two questions that you weren't happy with.
 06:24:53 22 I'm willing to let you reask those
 06:24:59 23 questions. I think, Robert, you didn't --
 06:25:02 24 you actually did, I believe, concede that
 06:25:04 25 you eventually got answers to all the

06:25:47 1 Court.
 06:25:48 2 Mr. Hawk, I don't know if you have a
 06:25:51 3 position.
 06:25:52 4 MR. HAWK: No, I agree with that.
 06:25:53 5 I think you've made your record, John,
 06:25:55 6 about -- you know, for what it's worth,
 06:25:57 7 you've offered to go back. I agree that's
 06:25:58 8 not practical right now for me to go back
 06:26:01 9 and try and remember without the aid of a
 06:26:05 10 transcript what questions I thought that he
 06:26:07 11 did not fairly answer. I will tell you that
 06:26:09 12 I thought there were a number of them, and I
 06:26:11 13 said so at the time. And I think I
 06:26:12 14 repeatedly gave him opportunities to answer
 06:26:15 15 those questions at the time.
 06:26:17 16 We may be able to work this out, but
 06:26:19 17 we're certainly not -- Defendant Saverin is
 06:26:22 18 not waiving his right to have this witness
 06:26:24 19 back either as an individual or even as a
 06:26:27 20 30(b)(6) witness, but I don't think we're
 06:26:29 21 going to resolve that today.
 06:26:32 22 MR. HORNICK: Well, I guess the
 06:26:33 23 final word is I expected you guys would keep
 06:26:35 24 track of those questions. It doesn't seem
 06:26:37 25 like you've done so. I'm giving your

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06:25:05 1 questions that you were trying to ask. So I
 06:25:07 2 don't think there are more than two
 06:25:08 3 questions that you guys were unhappy with.
 06:25:11 4 MR. HAWK: I don't think I conceded
 06:25:13 5 that.
 06:25:13 6 MR. CHATTERJEE: I think your
 06:25:13 7 recollection of this deposition is
 06:25:14 8 fundamentally different than mine. I don't
 06:25:18 9 know about you, Mr. Hawk. We will identify
 06:25:18 10 for you all of the questions for which Mr.
 06:25:21 11 Winklevoss provided no answer. There were
 06:25:23 12 not two. There were well over 20.
 06:25:23 13 MR. HORNICK: Okay.
 06:25:26 14 MR. CHATTERJEE: I'm not going to
 06:25:28 15 sit here and go through the entire record
 06:25:30 16 and read the answer he didn't answer and
 06:25:31 17 then revise it. We simply don't have time
 06:25:32 18 for that. That's going to take us until
 06:25:34 19 very late in the day.
 06:25:35 20 I think prudence would suggest we get
 06:25:37 21 through the transcript. I identify where I
 06:25:41 22 don't think he gave a response, you will
 06:25:42 23 have a transcript, clearly stated, and you
 06:25:44 24 can make a determination. Should you
 06:25:45 25 disagree with it, you can then take that to

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06:26:39 1 opportunity now. I'm not agreeing to bring
 06:26:41 2 the witness back. We'll see if we can work
 06:26:43 3 it out with you in some other way short of
 06:26:43 4 bringing the witness back, but I think that
 06:26:45 5 you got answers to all of your questions,
 06:26:47 6 and you didn't keep track of the ones you
 06:26:49 7 weren't happy with, so I think this
 06:26:50 8 deposition is over.
 06:26:52 9 MR. CHATTERJEE: Yeah, and, Mr.
 06:26:52 10 Hornick, it's interesting that you take that
 06:26:54 11 position when you've raised this opportunity
 06:26:55 12 to meet and confer now rather than during
 06:26:58 13 the numerous breaks throughout the day --
 06:26:58 14 MR. HORNICK: Well, actually --
 06:26:59 15 MR. CHATTERJEE: -- but that's
 06:27:00 16 enough.
 06:27:00 17 MR. HORNICK: I would like to say,
 06:27:01 18 though, on that, Neel, you did ask me to
 06:27:03 19 let's do it later, and I did wait until your
 06:27:06 20 deposition was over before I brought it up.
 06:27:07 21 I wanted to give you full and fair
 06:27:09 22 opportunity to ask all your questions and
 06:27:11 23 not take up your time, eat into your time.
 06:27:13 24 Your time is over, so now I'm bringing it
 06:27:16 25 up, you know, as you asked me to do.

06:27:17 1 MR. CHATTERJEE: Well, we'll take a
06:27:19 2 look at how much time you spent --
06:27:19 3 MR. HORNICK: But I'm willing to --
06:27:21 4 MR. CHATTERJEE: -- on your
06:27:21 5 objections.
06:27:22 6 MR. HORNICK: I'm willing to give
06:27:23 7 you more time now, and I think when you look
06:27:26 8 at the objections in context, you'll see
06:27:29 9 that I spent very little time today
06:27:30 10 objecting. That's all I have to say. Thank
06:27:32 11 you.
06:27:33 12 MR. CHATTERJEE: Be my guest.
06:27:34 13 We'll meet and confer with you on it.
06:27:36 14 THE VIDEOGRAPHER: The time is
06:27:40 15 6:27. This is the end of Tape 7. The
06:27:44 16 deposition is concluded, and we're off the
06:27:49 17 record.
06:27:49 18 (Whereupon the deposition was
19 concluded at 6:27 p.m.)
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1 In the United States District Court
2 For the District of Massachusetts
3 I, Jessica L. Williamson, Registered,
4 Merit Reporter, Certified Realtime Reporter
5 and Notary Public in and for the
6 Commonwealth of Massachusetts, do hereby
7 certify that CAMERON H. WINKLEVOSS, the
8 witness whose deposition is hereinbefore set
9 forth, was duly sworn by me and that such
10 deposition is a true record of the testimony
11 given by the witness.
12 I further certify that I am neither
13 related to or employed by any of the parties
14 in or counsel to this action, nor am I
15 financially interested in the outcome of
16 this action.
17 In witness whereof, I have hereunto set
18 my hand and seal this 11th day of August,
19 2005.
20
21
22
23 Jessica L. Williamson, RMR, RPR, CRR
24 Notary Public, CSR No. 138795
25 My commission expires: 12/18/2009

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9 I, CAMERON H. WINKLEVOSS, do hereby declare under
10 penalty of perjury that I have read the foregoing
11 transcript; that I have made any corrections as appear
12 noted, in ink, initialed by me, or attached hereto; that
13 my testimony as contained herein, as corrected, is true
14 and correct.
15 EXECUTED this _____ day of _____,
16 20____, at _____,
17 (City) (State)
18
19
20
21 CAMERON H. WINKLEVOSS
22
23
24
25

1 In the United States District Court
2 For the District of Massachusetts

3 I, Jessica L. Williamson, Registered,
4 Merit Reporter, Certified Realtime Reporter
5 and Notary Public in and for the
6 Commonwealth of Massachusetts, do hereby
7 certify that CAMERON H. WINKLEVOSS, the
8 witness whose deposition is hereinbefore set
9 forth, was duly sworn by me and that such
10 deposition is a true record of the testimony⁺
11 given by the witness.

12 I further certify that I am neither
13 related to or employed by any of the parties
14 in or counsel to this action, nor am I
15 financially interested in the outcome of
16 this action.

17 In witness whereof, I have hereunto set
18 my hand and seal this 11th day of August,
19 2005.

20
21 

22
23 _____
24 Jessica L. Williamson, RMR, RPR, CRR
25 Notary Public, CSR No. 138795
My commission expires⁺ 12/18/2009